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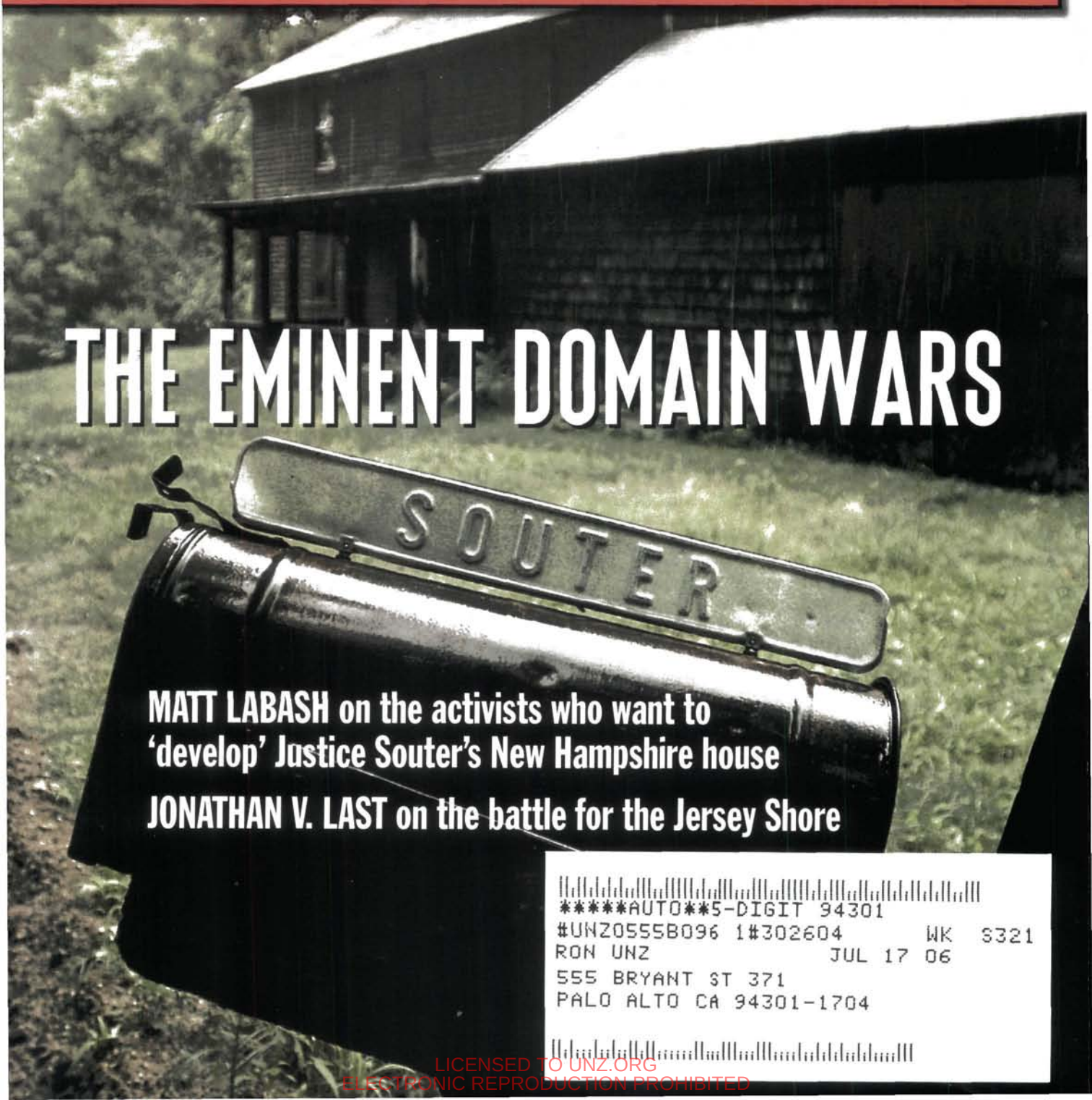
THE EMINENT DOMAIN WARS



MATT LABASH on the activists who want to 'develop' Justice Souter's New Hampshire house

JONATHAN V. LAST on the battle for the Jersey Shore

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Caught Padding Their Wikis

Wikipedia, the free, online encyclopedia at *en.wikipedia.org*, is a marvel of cyberspace. Its 952,833 articles (as of the afternoon of February 3, 2006) contain valuable information on an incredible variety of scientific, historical, artistic, cultural, economic, and political topics. It's easily searchable. And it's interactive. The encyclopedia's 878,309 registered users (also as of last Friday) are able to edit just about any entry, introducing new facts and conclusions, additional articles and hyperlinks, on a regular basis.

Problem is, registered users are also able to insert misinformation and slander into Wikipedia, and to delete facts they don't like. Luckily, such vandals are rare, limited to a tiny group of hackers, nerds, character assassins, and . . . er, members of the U.S. Congress.

On January 27, the *Lowell Sun*, a local newspaper in Massachusetts, reported that staffers for Martin Meehan, the Democratic congressman who represents Lowell, Lawrence, and the other towns that compose that state's 5th District, had gone into Wikipedia and altered their boss's online entry. Specifically, the *Sun* revealed, Meehan's chief of staff had asked an intern to substitute the entire existing entry with a new one that erased any mention of the congressman's broken term-limits pledge (he once promised he would serve in Congress for no longer than 8 years; he's just begun his 14th year), "as well as information about his huge campaign war chest." According to the *Sun*, Meehan, at $4.8 million and counting, has raised more money than any of his colleagues in the House.

The *Sun*'s reporting made the good people at Wikipedia curious. By looking at internal data, they were able to compile a list of over a thousand changes that had been made to the encyclopedia by computers with congressional IP, or Internet Protocol, addresses. (Many computers have a unique IP address, which acts sort of like an Internet footprint.) Some of the changes were "clarifications" in the Meehan mold. Others were embarrassing or malicious (or both). Virginia Republican Eric Cantor's entry was changed by someone on the Hill to read that he "smells of cow dung," and Senate majority leader Bill Frists's had been altered to say that he was "ineffective." Both changes had been made by people using computers on the House of Representatives network.

"That kind of usage, plus the fact they're changing one person's material, is certainly wrong and ought to be at a minimum the focus of some disciplinary action," Stephen Potts, a former government ethics officer, told *Sun* reporter Evan Lehmann. Indeed. Makes you wonder what other websites have been visited by computers registered to Congress. . . .

Actually, maybe we're all better off not knowing. ♦

Iraqi Mood Swings

A flurry of polls conducted in recent days asked the American people about their support for the war in Iraq. Results were mixed. Many Americans, though usually not a majority, continue to support the decision to remove Saddam Hussein. And many Americans have concerns about the war in Iraq and prospects for democracy there. There are, of course, several reasons for concern, not least of which is the continued violence on the ground in Iraq.

But there is also this: When there is "good news" from Iraq, the mainstream press often chooses not to report it. The latest example comes from the Knight-Ridder newspaper chain. Under the attention-grabbing headline, "Nearly Half of Iraqis Support Attacks on U.S. Troops, Poll Finds," Knight-Ridder reporter Drew Brown writes about the results of a survey conducted by the Program on International Policy Attitudes at the University of Maryland: "According to the poll's findings, 47 percent of Iraqis approve of attacks on American forces, but there were large differences among ethnic and religious groups."

Most would agree that the numbers are alarming, even if, as it happens, only 23 percent "strongly support" such attacks. But in a seemingly contradictory finding, the poll claims that only 35 percent of Iraqis want the Iraqi government to ask U.S. troops to leave "within 6 months."

Here is how the poll analysts attempt to explain the seemingly discrepant findings:

> Naturally the question arises why it is that only 35% want U.S. troops to withdraw within 6 months, but 47% approve of attacks on U.S.-led forces. Interestingly, 41% of those who support attacks do not favor a near-term withdrawal. One possible explanation is that the attacks are not prompted by a desire to bring about an immediate withdrawal but to put pressure on the U.S. so that it will eventually leave.

This less-than-convincing explanation of the strange findings is glossed over in the Knight-Ridder story. And lots was left out, too. For one thing, 66

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percent of Iraqis thought the recent elections were fair, including 77 percent of Kurds and 89 percent of Shiites.

For another, 68 percent believe that the current Iraqi government is legitimate and 64 percent think their country is headed in the right direction. But what especially caught our eye was the response to this loaded question: "Thinking about any hardships since the U.S.-British invasion, do you personally think that ousting Saddam Hussein was worth it or not?"

More than three-quarters of Iraqis polled—77 percent, to be precise—believe the hardships have been worth it. The breakdown: 13 percent of Sunnis, 91 percent of Kurds and 98 percent of Shiites.

While there is a certain amount of ambiguity as to what, exactly, constitutes "terrorism" to the average Iraqi, the results of another question seem equally encouraging. Iraqis were asked whether they agree with language from an Arab League declaration that "terrorism should be rejected." Yes, said 97 percent. Sounds like news to us. But don't look for any of these findings in the Knight-Ridder write-up. You'll have to glean them yourself from the full results at *worldpublicopinion.org*. ♦

Polls Apart

In its January 31 straw poll of readers' preferences for the 2008 Democratic presidential candidate, the *Daily Kos* reaffirmed just how far outside the mainstream the influential left-wing website's readership remains. Wisconsin Democrat Russ Feingold, the only senator to vote against the Patriot Act when it was initially passed and a dream candidate for the far left, led all choices, taking in 30 percent of 11,117 respondents. While site administrator Markos Moulitsas allows that the count isn't "a scientific poll of the Democratic Party rank and file, at 11k+ results it's a pretty darn accurate poll of the sentiments of the Daily Kos community."

Which is a nice way of saying that it doesn't at all reflect the sentiments of his party's base. The most recent national poll by the Associated Press/IPSOS of Democratic primary voters shows Feingold getting all of 1 percent of the vote. The most popular choice in the AP poll? Hillary Clinton, at 33 percent. She received only 3 percent of the vote in Kos's straw poll. ♦

New Breindel Award

We mentioned in this space last week the annual Eric Breindel Award for Excellence in Journalism, a memorial to longtime *New York Post* editor and columnist (and WEEKLY STANDARD contributor) Eric Breindel, who died in 1998 at the age of 42.

But there is also this year a new $10,000 collegiate award for the undergraduate whose journalistic work best reflects the themes that animated Breindel's writing: a love of country and of democratic institutions as well as the act of bearing witness to the evils of totalitarianism. For further information about this new award, please contact Germaine Febles at 212-843-8031 or *gfebles@rubenstein.com*. ♦

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Casual

Anne Brunsdale, 1923-2006

Back in the Stone Age, before the vast right-wing conspiracy and even the Reagan Revolution, there was a conservative Washington (just barely), and one of its fixtures was a handsome, smiling, slightly angular blonde woman named Anne Brunsdale.

Anne, who died recently at 82 at a nursing home in Colorado, was a Minnesotan of Norwegian descent. She studied political science and Far Eastern area studies at the University of Minnesota, then took a second master's degree in comparative government at Yale. In 1950, she moved to Washington to work for the young CIA and stayed six years. During that phase, she was married briefly to the conservative luminary Willmoore Kendall.

Her real Washington career, though, began a decade later, after a detour back in Minneapolis with an investment firm. By 1970, Anne was heading up the publications department for the then-unheard-of American Enterprise Institute, a wonderfully nonbureaucratic, unstuffy collection of scholars and public-policy intellectuals. Anne trained a cadre of young editors (including me) to an exacting standard, before moving on in 1977 to become founding editor of AEI's *Regulation* magazine.

In the Carter and early Reagan years, conservatives were forcing a shift in the conversation about government. The response to any given public problem was no longer automatically a top-down federal program designed in Washington and paid for out of taxes. Concepts like deregulation, privatization, public-private partnerships, and cost-benefit analysis were being advanced—nowhere more rigorously and creatively than in *Regulation*.

One measure of the magazine's standing is the promotions that accrued to its masthead after 1980. President Reagan chose its two university-based editors, Antonin Scalia and Murray Weidenbaum, for the Supreme Court and the chairmanship of the Council of Economic Advisers, respectively, while he named Anne, a passionate and principled free-trader, to a seat on the International Trade Commission.

There, she made heroic efforts to improve the quality of data and analysis available to commissioners, seeing to it that economists were added to the staff for the first time. She served as vice chairman, acting chairman, and chairman of the ITC before retiring in 1994.

Anne was a lifelong Republican (not counting the normal youthful flirtation with the far left), but she always had close friends in both political camps, and they tended to be people who enjoyed good food and drink and conversation. Their engagement with politics and ideas was as intense as it was civilized. Despite challenges in her personal life, Anne was personally and politically without rancor.

Family was her mainstay. She was one of four elegant sisters, just one of whom survives. Their progeny, on whom Anne doted—blondes all, and several of them Nordic giants—include nine nieces and nephews, seventeen great-nieces and nephews, and five great-great-nieces and nephews. When family members faced difficulties, Anne stood by them and repeatedly was able to help in significant ways.

An unconflicted fan of the free market, Anne was also a true lover of nature. She was never happier than when tending the camellias in the garden of her Capitol Hill townhouse, hiking the trails at her cabin in Encampment Forest on Lake Superior, or, in one of her last adventures, rafting through the Grand Canyon. At the end of the idyllic week I spent with her at the cabin in the early 1990s, she insisted on digging up a foot-tall pine sapling from the woods for me to take home on the plane and plant in my yard in Virginia.

Many of Anne's Washington contemporaries have preceded her in death; the group of friends who back in the 1960s started educating themselves with do-it-yourself wine-tastings at Chuck Lichenstein's or the Kirkpatricks' or the Pennimans' or the Cernys' or the Boltens' or the Crutchers'—or Anne's—has been decimated with time. And those who are left, along with Anne's many other surviving friends, experienced the loss of her nearly a decade ago when Alzheimer's clouded her mind.

What we retain is an altogether unclouded sense of an immaculately groomed woman, unfailingly cheerful and rational, intolerant of cant, without vanity, warm of heart, and utterly reliable.

Claudia Anderson

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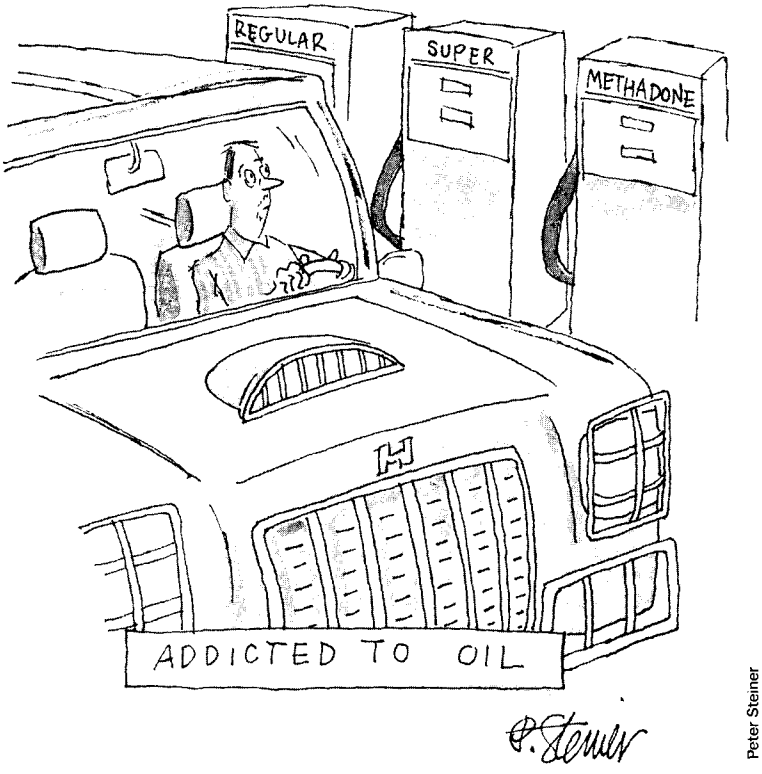
Oiloholics Anonymous

It's difficult to decide which is more depressing: the goal the president has set to cure us of our "addiction" to oil, or the prescription he has written to help us kick the habit. In his State of the Union address President Bush set as his goal the replacement of some 75 percent of the oil we import from the Middle East by 2025. Since about 17 percent of our imported oil comes from that volatile region, that would mean reducing total imports by a bit less than 13 percent, although from what base—current consumption, or consumption in 2025—is unclear.

Unfortunately, the oil market doesn't work that way. Unless we target Middle East producers with quotas, probably a violation of World Trade Organization rules, any import reductions will come out of the hides of higher-cost producers, not the Middle Eastern countries. Furthermore, our European allies, who made their reserves available to us during the supply interruptions caused by Katrina, would remain dependent on imports from the Middle East. And our reduced use would probably be offset by increased demand from China and India, diluting any effect the proposed cutbacks would have on the price of crude oil.



Peter Steiner

But let's not be churlish. President Bush at least avoided the grandiosity of Presidents Nixon and Carter, both of whom promised to end completely our dependence on imports. And he abandoned the unrealistic notion that we can feed our petroleum cravings with homegrown rather than imported oil, by gearing up domestic production in Alaska, the Rockies, and elsewhere. That concession to reality can't have been an easy step for a Texas oilman to take.

So let's concede that we should indeed attempt, in the president's words, to move "beyond a petroleum-based economy," or at least to meet his import-reduction target. Unfortunately, the president has chosen to travel a well-worn path that any conservative should avoid. We are to have a series of government investments in alternative technologies: $281 million already targeted for clean coal technologies is to be sped up; $54 million will be spent to develop emissions-free coal plants that capture and store carbon emissions; $148 million devoted to a Solar America Initiative; $44 million for wind energy research; $150 million to help develop bio-based transportation fuels from agricultural waste products such as "wood chips and stalks, or switch grass."

There are more bits and pieces, but you get the idea. The president has stolen from his father's new friend, Bill Clinton, the idea that sprinkling relatively tiny bits of money over a long list of projects creates the impression of

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real action. Perhaps we are lucky that the president didn't propose to spend even more on these projects, for they all share a fatal flaw: They may be little projects, but they reflect big-government thinking. The central planners in the Department of Energy decide which technologies hold the greatest promise, and spend taxpayers' money to find out if they can do a better job than markets in allocating resources to technologies that just might yield alternatives to oil.

We are not dealing here with John F. Kennedy's decision to develop technology to take us to the moon. There was no market for such trips. Energy is different. There is no reason private-sector entrepreneurs cannot develop alternatives to oil—if the price with which they are competing is certain enough, and high enough to reflect the risks to which our supposed addiction is exposing us. Unfortunately, it isn't.

One reason alternatives to oil for transportation have not developed is that investors and potential innovators know that if they do come up with a product that competes with oil at anything like current prices, the Saudis, who can produce the stuff for around $5 per barrel, can always lower the price and wipe them out. The other is that consumers are not really "addicts." They are rational. Even at current "high" prices, gasoline is still the best buy if you want to power a vehicle to work. Yes, hybrids are finding a niche among greener motorists and in Hollywood. But technologies that can really make a dent in gasoline-powered vehicles are not yet with us.

Wood chips and switch grass may one day be the answer. But history suggests that bureaucrats are not quite as good at picking winners as is the market. The president would have done better to set a floor under oil prices, with import fees if prices fell below a certain level ($35 was talked about by the speech's drafters), or to impose a levy on oil imports. The revenues need not end up as congressional earmarks; they could be used to lower other taxes such as the payroll tax, which is a tax on jobs. Then let the great American entrepreneurial genius, the praises of which the president often sings, go to work to develop technologies that can replace oil.

—Irwin M. Stelzer, for the Editors

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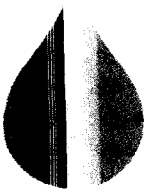

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The Six-Year Presidential Itch

Even with good presidents, energy flags in the second term. BY FRED BARNES

PRESIDENT BUSH told an old joke at the National Prayer Breakfast last week. A preacher delivers a powerful sermon, prompting a parishioner to leap to his feet and yell, "Use me, Lord, use me!" The same thing happens the next week, so the preacher buttonholes the man after church and says he'd like to use him to paint the pews. Another week passes and during the preacher's sermon, the man stands up again. "Use me, Lord, use me!" he says, "but only in an advisory capacity."

The president didn't liken the story to his second term, but in a loose way it applies. The administration's zeal, its daring, and passion for new world-changing initiatives seems to have faded with reelection. This often happens. In the sixth year of a presidency, the well runs dry. The flow of big ideas and bold proposals stops. It did for President Reagan. Tax reform was enacted in his sixth year, 1986, but it had been set in motion two years earlier. It did for President Clinton, who was tangled up in impeachment. Now it has for President Bush. The fresh parts of his agenda are underwhelming.

The absence of a powerful new agenda has a silver lining. It gives the president a breathing spell to finish the major undertakings from his first term: the war on terrorism, Iraq, Iran, the promotion of democracy. Taking on those projects in the first place has made Bush a consequential president, a leader and not a caretaker. Bringing them to success would make him at least a near-great president. And there are two leftover domestic issues as well: immigration and making his tax cuts permanent.

Bush's new proposals on energy, education, and health care, small as they are, have reignited an argument over whether he's truly a conservative and how he measures up to Reagan, the conservative favorite. I contrasted them broadly in the excerpt from my book, *Rebel-in-Chief*, in the January 23 issue of THE WEEKLY STANDARD. Now let's compare Bush as he begins his sixth year and Reagan at the same period in his presidency, using ten current, specific issues.

Foreign policy. Both Reagan and Bush should be called idealists, not realists. Both jacked up military spending. Both used hawkish and strong pro-democracy rhetoric. Both took on worldwide missions. Reagan aimed to bring down Soviet communism and succeeded. Bush is fighting a war against Islamic terrorists (and to spread democracy) and the verdict is still out. Bush is considerably bolder in deploying the military, invading Afghanistan and Iraq. Reagan captured Grenada, but his most aggressive policy was to support indigenous wars of liberation in Afghanistan, Nicaragua, and Angola. In terms of conservative policies, Bush is roughly Reagan's equal on foreign policy.

Israel. Reagan was Israel's best friend in the White House until Bush came along. Reagan famously stopped Israel from crushing the PLO under Yasser Arafat in 1982 and hastily withdrew Marines from Lebanon. Bush famously ostracized Arafat, allowed Israel to build a security fence and assassinate Palestinian terrorist leaders without American protest, and insisted on Palestinian democracy. The Reagan administration criticized Israel's bombing of Iraq's nuclear facility at Osirak, though Reagan himself probably didn't share that sentiment. Bush promised last week to defend Israel militarily against Iran. On balance, as pro-Israel as Reagan was, Bush's support is even greater.

Iran. A Bush administration official noted recently that the biggest disasters in American foreign policy in the past three decades involved Iran: the hostage crisis, arms for hostages, and the nuclear arms threat. Reagan ended the hostage affair merely by taking office in 1981. The Iranians feared what he might do if they didn't release the hostages. In 1987, Reagan's aides cajoled him into saying he'd sent Iran arms in

Fred Barnes is executive editor of THE WEEKLY STANDARD *and author of* Rebel-in-Chief *(Crown Forum).*

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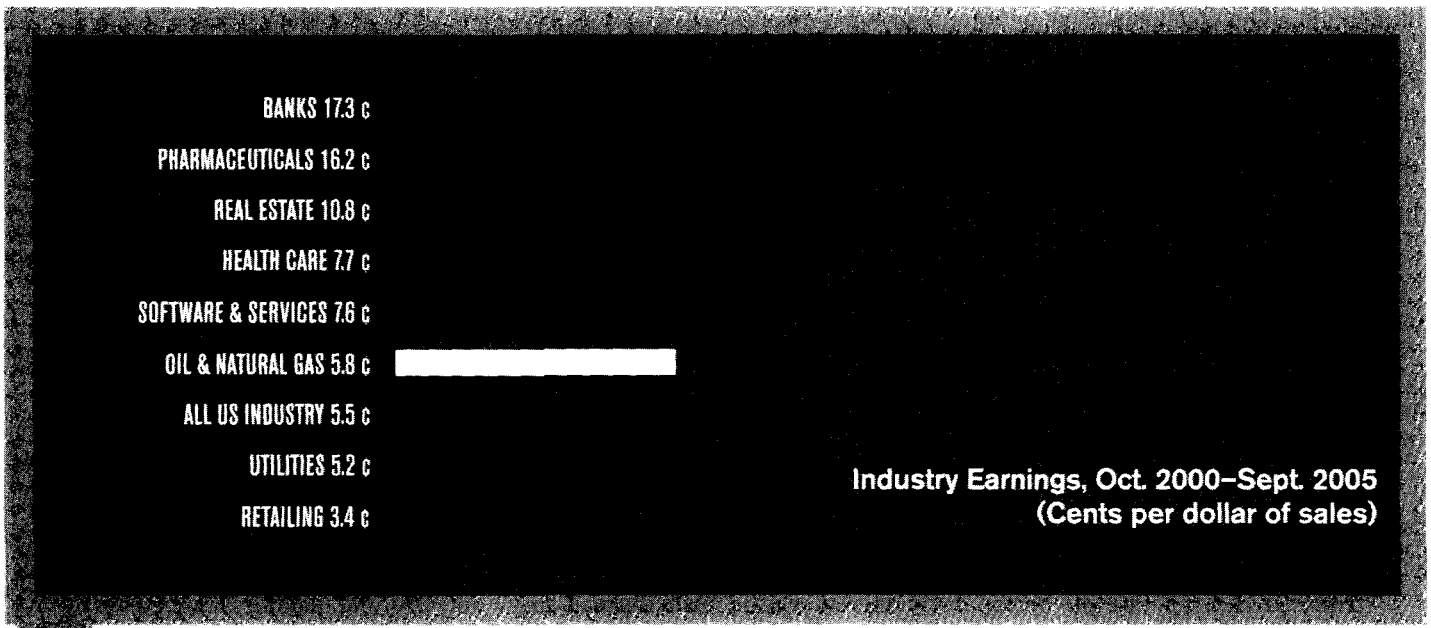

Straight talk on earnings

"**Oil company** earnings are too high."

That's the word on Main Street, for sure. But on Wall Street, there's a somewhat different perspective on oil industry earnings.

What many may find surprising is that, on average over the past five years, the profitability of America's oil and natural gas industry is far less than many other major industries, like banks, pharmaceuticals and real estate.

Part of the explanation is that it costs a lot just to operate an oil, refining and natural gas company. Ours is a competitive, high-technology and engineering business of massive scale that produces and sells commodities. It costs billions of dollars to explore for, produce, refine and distribute the products consumers need.

It requires billions more dollars to maintain the delivery system necessary to ensure a reliable supply of energy and to make sure it efficiently gets where it needs to go: to you, our customers.

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exchange for releasing hostages in Lebanon. Today, Bush has a bigger problem as Iran moves close to producing a nuclear weapon. He has worked with European allies for a diplomatic solution and believes Iran is so fearful of sanctions and isolation that this non-military tack may work. We'll see.

Taxes. Like Reagan, Bush is a serious tax cutter. Reagan's tax cut in 1981 was bigger than Bush's twenty years later, but it dealt with a far worse economy. And it worked, reviving the economy, just as Bush's has. With tax reform in 1986, Reagan trimmed the top rate on personal income to 28 percent, a magnificent achievement. He also raised taxes several times—Bush hasn't—but he gets credit for introducing a new economic theory, supply side, still a potent force in economic thinking. Bush hasn't matched Reagan overall on taxes, but there's no doubt he's a conservative and a supply-sider.

Social Security. Bush has an overwhelming advantage here. Rather than push for reform, Reagan agreed in 1983 to a Social Security bailout that raised the ceiling on income subject to payroll taxation and boosted the age for full benefits to 67. Bush championed reform last year, calling for private investment accounts funded by Social Security taxes. He found few vocal allies in Congress, yet he pushed ahead anyway and failed. Still, Bush left an important marker. The public is now convinced reform must come or Social Security will go belly up. But reform may not occur until the post-Bush years.

Government and spending. In theory, Reagan and Bush would seem to disagree on the size of government and the level of spending. Reagan is thought of as a small government conservative who gutted government and slashed spending. Bush is viewed as the opposite: a strong government conservative who tries to use government for conservative ends. But their actual records are pretty similar. Reagan cut spending only in his first year. Bush has held down nondiscretionary spending, and his budget deficits are a smaller percentage of GDP. Still, Reagan was more in line with traditional conservatism. He vetoed spending bills. Bush hasn't.

Education. Theory and reality clashed on education for Reagan. He sought to eliminate the Education Department but wound up letting education spending rise significantly. Bush regards the department as permanent and works through it to impose standards and testing on schools, overriding local control. Education spending has doubled. Bush may be less of a conservative than Reagan on education, but he's more realistic.

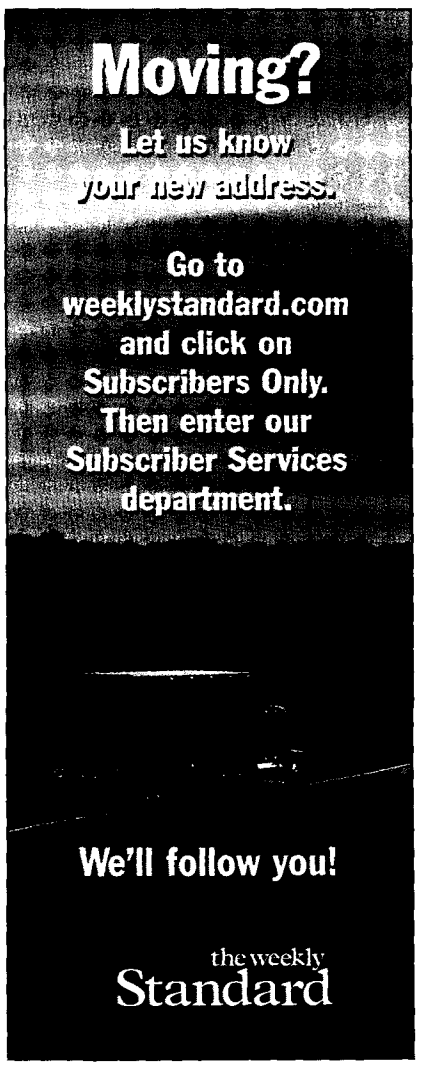
Courts. With his Supreme Court picks, Reagan moved the court to the right, but only slightly. His first nominee, Sandra Day O'Connor, succeeded Potter Stewart, a tick to the left. Antonin Scalia, in effect, replaced Warren Burger, an ideological lurch to the right. Under Bush, the switch from Chief Justice William Rehnquist to John Roberts was a wash. But chances are the replacement of O'Connor by Sam Alito will jerk the court in a decidedly conservative direction. So Bush has already reached the Reagan level, and may be surpassing it, in transforming the judiciary. And further nominations are possible.

Medicare. Bush is no conservative on this one, having created a costly prescription drug entitlement when he could have opted for a program aiding only needy seniors to buy prescription drugs. Reagan was better, but not much. He won enactment in 1983 of what was by far the biggest expansion of Medicare since its inception.

Immigration. Bush is no conservative on immigration, but neither was Reagan. Bush favors new ways to allow immigrants to enter America legally so they aren't slipping illegally across the border. He is accused of favoring amnesty for illegal aliens. Reagan was accused of this, too. He signed the Simpson-Mazzoli bill in 1986. It permitted illegals who entered the country before 1982 to gain citizenship.

Following the president's State of the Union address last week, conservatives found fault with his emphasis on government-financed energy programs and an American Competitiveness Initiative, plus his failure to promote tax reform. His speech was conservative only on foreign policy and health care.

And it was no balm to conservatives when Bush joked and backslapped with Bono, the U2 singer and advocate of debt forgiveness and AIDS relief in Africa, at the prayer breakfast. Bono spoke first. When Bush followed, he said he was "trying to figure out what to say" about Bono. "Careful," Bono said in a stage whisper. The president had nothing but praise for the singer. ♦



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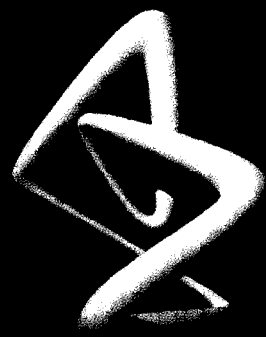
What Does This Stand For?



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Supreme Court Arithmetic

Conservatives should hope that Bush's next choice gets *fewer* than 58 votes. BY JEFFREY BELL & FRANK CANNON

IF PRESIDENT BUSH gets to make a third appointment to the Supreme Court this year, odds are he'll be filling a seat occupied by one of the court's five liberals. Their average age is 72, while the average age of the court's four conservatives is 58.

In that eventuality, you'll know something historic has happened if Bush's nominee gets 58 votes—or fewer.

In the current Senate, there are 54 Republicans—55 if you insist on counting Rhode Island's Lincoln Chafee, who voted against Samuel Alito and admits he didn't vote for the Bush-Cheney ticket in the 2004 election. Alito won the votes of those 54 Republicans, plus four Democrats who represent very, very conservative red states.

In a putative 2006 battle for the seat that will determine ideological control of the court, Ralph Neas of People for the American Way and the handful of other liberal lobbyists who call the tune for Democratic senators on judicial issues will undoubtedly exceed their impressive performance on the Alito nomination. The same lobbyists who enticed John Kerry down from the ski slopes of Davos, Switzerland, and got more than 90 percent of Senate Democrats to vote against a brilliant, articulate, universally respected conservative with 15 years of judicial experience, will undoubtedly do even better when liberals are in imminent danger of losing control of the High Court for the first time in 70 years.

Jeffrey Bell and Frank Cannon are principals of Capital City Partners, a Washington consulting firm.

Neas may pick up one or two more Blue State Republicans and may even squeeze a couple of additional Red State Democrats into signing their own political death warrants.

In the high-stakes election year of 2006, Republican national chairman Ken Mehlman certainly hopes so. Mehlman is acutely aware that the single biggest factor that has given his party its current solid margin of Senate control is the politics of judicial confirmation. In the two election cycles since Bush became president, when Republicans went from minus two to plus ten in the Senate, a total of nine Senate seats switched hands from Democratic to Republican. Seven of these were in the South, and an eighth was the South Dakota seat of Democratic leader Thomas Daschle, the architect of Democratic judicial obstructionism in Bush's first term.

Ken Mehlman is acutely aware that the single biggest factor that has given his party its current solid margin of Senate control is the politics of judicial confirmation.

There are signs that brass-knuckled judicial battles are becoming a less than unalloyed Democratic blessing even in some socially liberal blue states. Thanks to Neas, freshly appointed New Jersey senator Robert Menendez last week found himself, in his maiden Senate speech, explaining why it would be a good thing to filibuster the nomination of an Italian American from New Jersey.

The truth is that age-old liberal hot buttons are growing stale. During the Alito battle, a 1985 job application memo was leaked in which Alito wrote that "the Constitution does not protect a right to an abortion." Neas leapt on the memo, telling an interviewer at the time, "I believe this will be seen as a catalytic moment, when senators and the public questioned what they knew about him." Neas was wrong on both counts. Senators on both sides had been aware for some time that Alito is a judicial conservative, and the already solid public approval of the nomination went up in subsequent polling.

Particularly striking was the quick collapse of a filibuster attempt by the Democratic leadership. A Democratic caucus that had held solid for the filibuster of multiple nominations to the federal circuit courts in Bush's first term could muster only 25 of the 41 votes needed to block Alito. It's now evident that last year's bipartisan "Gang of 14" led by John McCain, which at first appeared to preserve the Democrats' right of judicial filibuster, has instead delivered effective control of the Senate confirmation calendar to Majority Leader Bill Frist.

As a result, Senate Democrats' ability to hold the Bush vote count to 58 or below has stopped being a mortal threat to a competent conservative nominee. Indeed, the triggering of another ideological clash, coming deeper into the election year, is the best bet for Republicans to defy the odds and enjoy a third straight cycle of Senate gains in 2006.

So the thing for conservatives to hope for is 58 votes or fewer for the next Bush Supreme Court choice. A higher count than that will mean one of two things, both of them bad: Bush has picked the wrong person, or (far less likely) the Democrats have decided to stop Ralph Neas and his acolytes from digging them into an even deeper Senate hole. ♦

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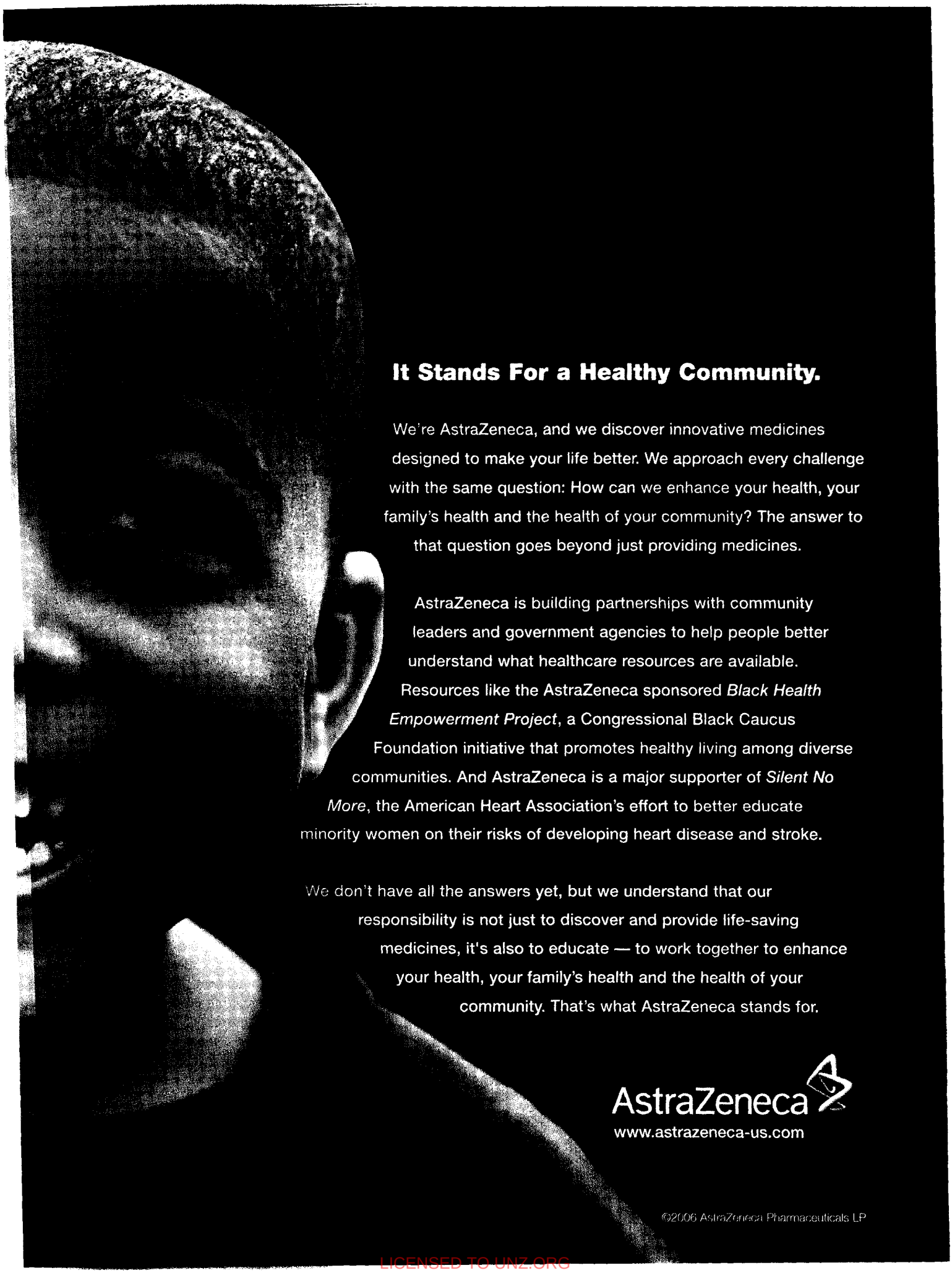

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The Mohammed Cartoons

Western governments have nothing to apologize for. BY PAUL MARSHALL

As most of the world now knows, on September 30, the Danish newspaper *Jyllands-Posten* published twelve cartoons depicting the Prophet Mohammed. Subsequent disputes have drawn in the Arab League, the Organization of the Islamic Conference, the Council of Europe, the European Union, the World Trade Organization, the United Nations, and Hezbollah, to name a few. Since not only freedom of the press but also freedom of religion are threatened, it is vital to be clear-sighted about the issues at stake.

In the light of Salman Rushdie's case, the butchering of Dutch director Theo Van Gogh for his film on Muslim women, and death threats against Egyptian actor Omar Sharif for playing St. Peter on Italian TV, *Jyllands-Posten* wanted to test whether "we still have freedom of speech in Denmark." Knowing that Islamic tradition forbids such portrayals, it commissioned illustrations for what editor in chief Carsten Juste called "an article on the self-censorship which rules large parts of the Western world."

The paper expected a strong reaction, and got it. Immediately, two employees received death threats, and the paper hired security guards. Juste responded, "If we apologize, we go against the freedom of speech that generations before us have struggled to win."

On October 20, eleven ambassadors from Muslim-majority countries asked to meet Danish prime minister Anders Fogh Rasmussen to complain about a "smear campaign" against Islam. He responded, admirably: "I won't meet with them because it is so crystal clear what principles Danish democracy is built upon that there is no reason to do so. . . . As prime minister I have no tool whatsoever to take actions against the media, and I don't want that kind of tool."

With no apparent sense of irony, Egyptian officials then withdrew from a dialogue on human rights with their Danish counterparts. Subsequently, Arab interior ministers called for Danish authorities to "punish those responsible," the Jordanian Parliament demanded action against those "striking at the sentiments of the Arabo-Muslim nation," Iran and Iraq protested to Danish envoys, Syria, Saudi Arabia, and Kuwait recalled their ambassadors, Libya closed its embassy, and Saudi Arabia and Sudan announced a boycott of Danish products.

In Gaza, thousand of protesters burned Danish flags while chanting "Death to Denmark," and gunmen stormed the European Union office. In Iraq, Danish troops were put on alert after a local fatwa was issued. In Kashmir, shops closed in protest. Pakistan's Jamaat-e-Islami party placed a bounty of 50,000 Danish kroner on the cartoonists. Jihadi websites are threatening suicide bombings in Denmark. Hezbollah's head, Hassan Nasrallah, declared if Muslims had carried "out the fatwa of Imam Khomeini against the renegade Salman Rushdie, the scum who are insulting our Prophet Mohammed in Denmark, Norway, and France would not dare do so."

Mohammed Sayed Tantawi, head of Al-Azhar University in Cairo, proposed to raise the matter with the "U.N.'s concerned committees" and human rights groups. The Organization of the Islamic Conference (OIC) and the Arab League want the U.N. General Assembly to pass "a binding resolution banning contempt for religious beliefs and providing for sanctions to be imposed on contravening countries or institutions."

The U.N. high commissioner for human rights, former Supreme Court of Canada justice Louise Arbour, replied to the OIC, "I find alarming any behaviors that disregard the beliefs of others." She launched investigations into "racism" and "disrespect for belief," and asked for "an official explanation" from the Danish government. However, despite being a professed defender of human rights, she showed no alarm at the OIC's disregard for the Danes' belief in and commitment to a free press.

Thereafter some newspapers took their own steps. The Norwegian *Magazinet* republished the cartoons on January 9. Then, on February 1, seven European papers including Italy's *La Stampa*, Spain's *El Periodico*, and the Netherlands' *Volkskrant* followed suit. Germany's *Die Welt* did likewise, arguing that in the West there is a right to blaspheme. *France Soir* published them, along with Buddhist, Jewish, and Christian caricatures, under the headline "Yes, we have a right to caricature God." Other media, including the BBC, are taking similar steps.

Gaza gunmen then threatened to kidnap French, Norwegians, Danes, and Germans unless their governments apologized. Meanwhile, *France Soir*'s managing editor was sacked, as was the editor of Jordan's *Shihan*, which ran some of the cartoons to show how offensive they were, while urging Muslims to "be reasonable."

Defending freedom of religion and freedom of the press requires distinguishing who is being criticized, and distinguishing criticism from threats. It is one thing to condemn *Jyllands-Posten* for offending millions of peo-

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ple. It is a very different thing to criticize the Danish or other governments, since the criticism itself, even apart from invidious calls for cartoonists to be punished by the state, assumes that government should control the media. Saudi Arabia, Iran, and their authoritarian brethren, as well as jihadist vigilantes, are attempting to export and impose their media censorship and version of sharia on the world at large, using economic pressure, international organizations, or violence.

Hence, as Rasmussen correctly stated, he was sorry that Muslims "felt insulted," but the Danish government "cannot be held responsible for what is published in the independent media." Similarly, Norwegian prime minister Jens Stoltenberg was sorry "this may have hurt many Muslims," but said the Norwegian government "cannot apologize for what the newspapers print."

As a man of principle, Rasmussen should also tell the Egyptian and other ambassadors that not only is this none of the Danish government's business, but, since they are ambassadors of countries, not religions, it is none of their business either. They, especially the Saudis, may reply that they do not make that distinction. Our response should be to state clearly and firmly that we do, and that protecting religious freedom requires us to uphold it in our dealings with others.

Finally, amid current calls for "toleration" and "respect for belief," we need to be very clear about the distinction between religious toleration and religious freedom.

Religious toleration means not insulting somebody else's religion, and it is a good thing. But religious freedom means being free to reject somebody else's religion and even to insult it. Government should want and encourage its citizens to be tolerant of one another, but its primary responsibility is to protect its citizens' rights and freedoms. The fact that people are sometimes insulted is one cost of freedom. The *Jyllands-Posten* affair calls us to uphold that principle internationally as well as domestically. ♦

Peace in Theory

What does Hamas's victory mean?

BY TOD LINDBERG

WITH HAMAS'S smashing victory in free and fair elections in Palestine, the case for democracy-promotion that George W. Bush outlined a year ago in his second inaugural address has been taking on water. Do we really want a political process that results in victory and legitimacy for terrorists? As Palestine goes, so might a democratic Syria, Egypt, Saudi Arabia, etc., given the opportunity. All of a sudden, stability—in the form of dictatorial repression keeping a lid on something worse—maybe doesn't look so bad.

Which makes the Hamas victory an "I told you so" moment for those who have been warning about the dangers of democracy promotion from the beginning—more or less since the end of the Cold War, but especially in relation to the Arab Middle East and in response to the Bush administration's post-9/11 enthusiasm for democracy promotion there. Given the rise of Islamic radicalism in the late 20th century, the secular dictators of the region and the stability their authoritarian rule provides look like a preferable alternative, runs the critique. Let people vote, and they will vote the radicals in. Such was the sense of danger in Algeria in 1991, when the army intervened to cancel further elections after the fundamentalist Islamic Salvation Front ran

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strong in the first round of balloting.

The potential danger of democracy has, of course, long been an argument from the "realist" camp (or "neorealist," as international relations scholars prefer). Perhaps the best-known investigation of the risk of popular elections in certain conditions is Fareed Zakaria's *The Future of Freedom: Illiberal Democracy at Home and Abroad* (2003), which warns against too-blithe assumptions about what people will choose at the polls when they lack well-cultivated habits of self-governance. If "realism" has a public face these days, it is that of Brent Scowcroft, the national security adviser to the first President Bush, who has been outspoken in opposition to a democratic shakeup of what he characterized in an interview with the *New Yorker* as "fifty years of peace" in the Middle East.

Obviously, there is a certain hard-nosed quality to the realist perspective, otherwise it wouldn't be possible to subsume the 1.5 million casualties of the 1980s Iran-Iraq war, for example, under the category of "peace." Perhaps Scowcroft's point was that the United States hasn't had to fight there—well, not much, anyway—and the oil (our "vital interest") has kept flowing. In any case, realists do not seek praise for their humanitarianism, nor are they bothered by any sense of contradiction in the view that liberal democracy works reasonably well for the societies in which they live, whereas others should be left to work their political arrangements out for themselves (or left to the arrangements already worked out for them, as the case may be).

So Hamas is exactly what realists would, and in some cases did, expect to follow from free Palestinian elections. Not so the Bush administration, which seems to have been caught flat-footed by the results. The expectation or hope was that Palestinians would vote for Mahmoud Abbas's Fatah, the supposedly non-radical alternative that would bolster hopes for a peace settlement with Israel. Instead, we have democratic legitimation for an organization sworn to destroy Israel and committed to terror attacks against Israeli civilians as a means to that end. This is not what Secretary of State Condoleezza Rice had in mind when she announced, a week before the Hamas victory, the new U.S. commitment to "transformational diplomacy."

Some of those who support the administration's democracy-promotion initiative have turned to the consolations of theory. One argument is that the vote for Hamas was actually a vote against the longstanding corruption of Yasser Arafat's ruling Fatah; we should accordingly avoid leaping to the conclusion that most Hamas supporters seek the destruction of Israel. Another argument is that Hamas's victory came as a surprise and perhaps a disappointment to Hamas itself: The organization had and has no real desire to assume the burdens of governing; it wanted an opposition role from which to snipe at the Palestinian leadership. Instead, Hamas will soon find itself overwhelmed by the demands of running the Palestinian Authority. It will accordingly have less time and opportunity to plot its radical agenda against Israel.

Yet another argument from theory is that radicalism needs to burn itself out electorally, as the radicals fail to deliver either good governance or the success of their grand ambitions, in this case the demise of Israel. Such failure will create the conditions in which moderate leadership will emerge and receive popular backing. Further, Hamas itself might change in such a fashion as to avoid all the above pitfalls—in the interest of maintaining its electoral viability, on the assumption that January 25, 2006, was not the last free election of democratic Palestine. And if more elections are indeed forthcoming, we have one more thing going for us: the "democratic peace." Democracies don't go to war with each other: Such is the conclusion scholars have drawn from the evidence of the past hundred years.

The bottom line of many of the democracy-promoters, therefore, is that one way or another, things will change. The democratic process itself channels those participating in it in the direction of liberal outcomes, for the simple reason that office-seekers in democracies are rational actors seeking votes and voters are likewise rational in pursuit of their interests.

Oddly enough, it's not just the democracy-promoters who have a theoretical stake in a change in the stripes of Hamas. Although they won't be talking about it during a season in which they are busy scoring points against the starry-eyed Wilsonian folly of the Bush administration, so do the realists.

Their assumption, after all, is that states operating in the usual conditions of international anarchy—no rules to protect them—will act rationally in pursuit of security through self-help, the only means available. Now, as it happens, if you attack your neighbor, whether by conventional or unconventional means, and that neighbor is strong enough to do something about it, there is an entirely predictable outcome: war. If your neighbor is so strong that such a war would pose an existential peril to you, for example because your neighbor has nuclear weapons, then you are going to be deterred from waging aggressive war. Israel has the conventional capacity to take down the government of the Palestinian Authority if necessary, not to mention nuclear weapons. Ergo, the Hamas government is deterred from acting in ways that will provoke such retaliation.

Precisely such theoretical calculations led neorealist scholars to the conclusion that Saddam Hussein had long been effectively deterred from using his weapons of mass destruction against the West. (Yes, the neorealists, like everyone else, accepted that he had them; their position was that his possession of them posed no special danger.) Nor would he pass them on to terrorist organizations. The risk to Saddam himself would be too great. The United States could safely pursue its policy of containment indefinitely. The only real risk of his use of weapons of mass destruction, some

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said, would come from a U.S. attack on him in which he realized his survival was at stake.

Meanwhile, from the neorealist perspective, you can readily empathize with Iran's apparent determination to build nuclear weapons: Look at all the talk about U.S. or Israeli airstrikes against its nuclear facilities or even a U.S. regime-change operation. What Iran wants, in this view, is security, and that requires a deterrent capability. And given the neighborhood, it's not obvious why even a democratic, secular, Western-leaning Iran wouldn't want a nuclear deterrent—or why its neighbors should feel unduly threatened by the prospect, since any Iranian ruler would know that waging aggressive war with nuclear weapons or passing them on to terrorists would call forth nuclear retaliation in return.

Jacques Chirac, in an illustration of the dominant French strategic culture of realism, recently visited a French nuclear submarine base to warn: "The leaders of states who would use terrorist means against us, as well as those who would consider using in one way or another weapons of mass destruction, must understand that they would lay themselves open to a firm and adapted response on our part. This response could be a conventional one. It could also be of a different kind."

By this reasoning, if the Hamas government of Palestine were, say, to acquire a nuclear weapon, it would be an entirely different problem from a nuclear weapon falling into the hands of a terrorist group. Sovereignty fixes accountability; such a weapon would deter Israeli aggression, but it could never be used, because it would bring forth nuclear retaliation from Israel in response.

Does anybody really find this line of reasoning all that reassuring? Any more so, or even as much as, the promise of the possible moderation of Hamas in power as a result of democratic electoral pressure? I'm afraid I don't. In fact, the arguments are one and the same; they merely shift the unit of analysis: The neorealist finds in "the state" and the structure of the state system the same inducement to rational behavior that many analysts of the "democratic peace" attribute to political actors operating in democratic societies. Someone or something, somewhere, is a rational calculator of self-interest, which includes preeminently self-preservation, and that's that. Do you feel safe now? Should Israelis?

In general, no doubt, an interest in self-preservation predicts a great deal about the behavior of states and of individuals. But it is not a basis from which to *deduce* behavior. I hope the Palestinian Authority of Hamas turns out to be moderate, leading to a state of Palestine that is exemplary with regard to the democratic peace; I would welcome the subsequent debate over whether that outcome is best explained by the characteristics of the state as such in the system of states or the beneficial behavioral effects promoters attribute to democracy.

But such hope does fall a bit short of an expectation. Hamas with the resources of a state at its disposal might very well turn out to be (with apologies to P.J. O'Rourke) the equivalent of teenage boys with a bottle of Jack Daniel's and the keys to the old man's car: a very poor calculator of self-interest and self-preservation. That's on the further assumption that self-preservation in a culture that celebrates suicide bombing means the same thing we think it does. If ridding the Middle East of the Zionist entity is a matter of your going up in the inferno, too—well, the rewards of Paradise are great, and those outside the Zone of Total Destruction who share your beliefs will praise you for the greatest martyrdom operation of all time.

But we are getting ahead of ourselves. Palestine is not yet a state, let alone a nuclear power, and though it has had a free election and the results do indeed reflect the will of Palestinian voters, it is hardly a stable democracy, either. Perhaps the existing deficiencies in sovereignty and democratic maturity will cause our respective theorists to step back from their predictions to allow for other possibilities, such as the one in the preceding paragraph. That would be good, because the outcome is uncertain, and the challenge for policymakers is great.

But what has not changed with the Hamas victory, and does not change, is that *if* the habit of living peacefully in a democratic society takes root and spreads to include the idea that one should live peacefully with other such societies, then the people of those societies are better off. I am here including a propensity for peace as part of my *assumption*, not presenting it as a deduction or prediction. The question, then, is how to get to conditions in which that assumption is valid. This may turn out to be difficult not only in ways we can predict but also in ways we cannot.

Unfortunately, there is little reason to believe, as the Bush vision sometimes seems to, that politics based on freedom, democracy, and peaceability among those who share those values will solve the problem of terrorism, which is also a matter of cells of individuals acting from within otherwise peaceful societies. Terrorism is the separate problem of getting in individual cases to the same assumption about peace that we want to get to with societies as a whole. Same problem, different unit of analysis. In his second inaugural address, Bush said, "Eventually, the call of freedom comes to every mind and every soul." If that's true, then the forms the "call" takes are various, and to achieve the results Bush wants from freedom will require disciplining that "call" into something that recognizes the equal freedom of others and seeks peace with them.

But getting to conditions in which an assumption about the desire for peace is valid is *the* political task of those who want peace, as Bush has rightly said. The leading alternative framework is a set of assumptions that can lead you to the moral monstrosity of surveying the past fifty years of Middle East history and calling *that* peace. ♦

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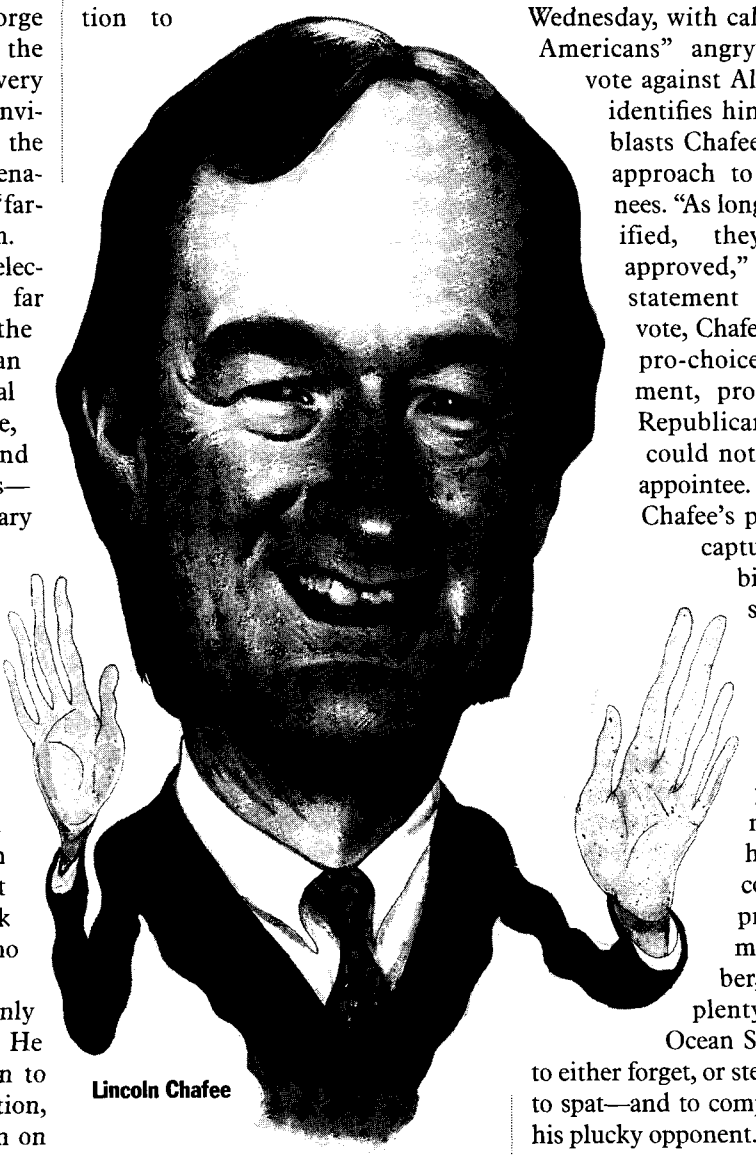
The Weakest Linc

Why are the Republicans going out of their way to keep a liberal in the Senate? BY DUNCAN CURRIE

LINCOLN CHAFEE, easily the Senate's most liberal Republican, didn't vote for George W. Bush in 2004. Instead, he lodged a "symbolic protest" by casting a write-in ballot for former president George H.W. Bush. Chafee's beef with the younger Bush? Iraq ("a very, very costly quagmire"), tax cuts, the environment, gay marriage, abortion, the deficit—Rhode Island's junior senator opposed the president's "far-right-wing" policies on all of them.

Nevertheless, in his bid for reelection this year, Chafee has so far enjoyed the robust support of the White House, the Republican National Committee, the National Republican Senatorial Committee, the Rhode Island state GOP, and leading Senate conservatives—despite the presence on the primary ballot of a right-of-center alternative, Cranston mayor Stephen Laffey. Explains NRSC spokesman Dan Ronayne, "You're talking about probably the second most liberal state in the country." (Rhode Island was the most pro-Gore state in 2000, giving him 61 percent of the vote, and second only to Massachusetts in its support for Kerry in 2004, at 59 percent of the vote.) "We think Chafee is the only Republican who can keep the seat."

Lincoln Chafee is often "the only Republican," or one of very few. He was the only Senate Republican to vote against the Iraq war resolution, and one of three to oppose a ban on partial-birth abortion. He was one of two Senate Republicans to vote against both of President Bush's principal tax cuts, in May 2001 and May 2003 (the other was John McCain). Just last week, he was the only Republican to vote against Samuel Alito's confirmation to the Supreme Court.



Lincoln Chafee

Illustrationn by Earl Keleny

Chafee's "nay" on Alito piqued his conservative detractors. "The more I think about it, the more important it seems to me that Steve Laffey beat him," wrote *National Review*'s Ramesh Ponnuru. The *Wall Street Journal* played up the ethnic angle, noting that "Rhode Island has a higher proportion of Italian-Americans than any other state, and a vote against Judge Alito may not go over well, especially coming on the heels of Mr. Chafee's 'aye' vote for an equally conservative Chief Justice whose name ends in a consonant."

Chafee's challenger himself concurs. "My phone's been ringing off the hook," Laffey told me last Wednesday, with calls "from Italian Americans" angry over Chafee's vote against Alito. Laffey, who identifies himself as pro-life, blasts Chafee's "litmus test" approach to judicial nominees. "As long as they're qualified, they should be approved," he says. In a statement explaining his vote, Chafee wrote, "I am a pro-choice, pro-environment, pro-Bill of Rights Republican" and thus could not vote for Bush's appointee.

Chafee's pickle over Alito captures the broader bind he finds himself in: The positions that will help him in the general election—such as rejecting Bush's judicial nominees—will hurt him in the more conservative GOP primary. The primary is in September, which leaves plenty of time for Ocean State Republicans to either forget, or stew about, the Alito spat—and to compare Chafee with his plucky opponent.

Talk about an odd couple! The only thing Laffey and Chafee have in common is bulging bank accounts. But where Laffey is a former Wall Street whiz and self-made millionaire who never tires of discussing his up-

Duncan Currie is a reporter at THE WEEKLY STANDARD.

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by-the-bootstraps life story, Chafee comes from one of the "Five Families" that used to dominate Rhode Island politics. He is the son of the late governor-turned-senator John Chafee, and, to boot, he married into the Danforth family fortune. From there the contrasts only multiply. Laffey is a populist, Chafee a patrician. Laffey is garrulous, Chafee reserved. Laffey is blustery, Chafee soft-spoken. Laffey is a boat-rocker, Chafee a boat-steadier. While Laffey claims the support of "Reagan Democrats," Chafee is a throwback to the Rockefeller Republicans against whom Reagan rebelled.

Given the pervasive skepticism about Laffey's chances in a general election, his confidence can be disarming. He touts his rise from hard-scrabble Cranston to Harvard Business School to Paine Webber to the presidency of a $500-million brokerage firm in Memphis. He returned to his hometown at the peak of his business earning potential and won the mayor's race in a city where Democrats outnumber Republicans three to one.

Laffey then talks up his record of "taking on special interests and winning." Cranston, Rhode Island's third-largest city, had the worst bond rating in the country when he took office. Laffey raised taxes and restored the city's bond rating to investment grade status "in less than two years." He went on to defy the public-sector unions.

As the mayor tells it, the 39 crossing guards in town were earning the equivalent of $129 an hour with health insurance, while typically working one hour a day. The arrangement, buried deep in the police budget, "summed up . . . what had gone wrong in Rhode Island," a state known for powerful unions and for corruption. After he fired the crossing guards and sought to privatize their jobs, the union took him to court. Laffey won. "Reagan had the air-traffic controllers," Laffey brags, "I have the crossing guards."

Small wonder he's now *persona non grata* with organized labor. Laffey wears this as a badge of honor, and points out that he won reelection in 2004 by a landslide. Still, his anti-union image may dog his hopes of reaching the Senate. Unions still exercise prodigious sway in Rhode Island in the general election.

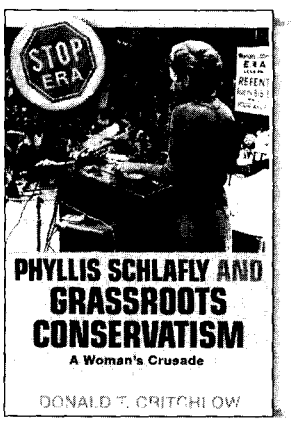
Before that, Laffey must win the primary, despite a pro-Chafee blitzkrieg by the national GOP establishment. Senate majority whip Mitch McConnell of Kentucky, a leading conservative, has appeared at a Chafee fundraiser, as have White House chief of staff Andrew Card and commerce secretary Carlos Gutierrez, while Majority Leader Bill Frist's PAC has pumped gobs of money in Chafee's war chest. And according to Dan Ronayne, the NRSC has already spent upwards of $200,000 on anti-Laffey TV ads in Rhode Island.

These ads question Laffey's conservative credentials, even though, by almost any measure, the mayor stands well to Chafee's right. "Laffey has increased spending and raised taxes every year he's been in office," argues Ronayne. He's now "trying to sell a bill of goods" by posing as a Reagan Republican. Citing Center for Responsive Politics research, the NRSC also notes that, while living in Tennessee, Laffey donated money to Rep. Jesse Jackson Jr. and to the Democratic opponents of Senator Frist and former GOP senator Fred Thompson.

But, at root, what explains the NRSC's opposition to Laffey is Chafee's perceived electability in one of the bluest of states. Whoever wins the primary will face a strong Democrat in the general—probably either secretary of state Matt Brown or former attorney general Sheldon Whitehouse. For Republicans, it comes down to the fear that Laffey will win the primary but lose in November. Says Ronayne, "Chafee would be a heavy favorite" against either Brown or Whitehouse. "Laffey would just get swamped."

So Chafee must walk a fine line this year vis-à-vis Bush and the Republicans. "You tend to be supportive as you come into the [election] cycle," he told the AP in December 2004. "If I need their help occasionally, I'm going to have to help them. But I'm not going to sacrifice my principles either." Chafee's press secretary, Stephen Hourahan, points out that, until the Alito vote, his boss had consistently supported Bush's judicial nominees, even fiery conservatives such as Janice Rogers Brown. Chafee also backed the president on CAFTA and bankruptcy reform. In October, Chafee compared his relationship with the White House to "a mutual nonaggression pact."

The Democratic Senatorial Campaign Committee thinks otherwise. It has targeted Chafee as vulnerable. "Chafee Is A Rubber Stamp For National Republicans," blared a recent DSCC press release. That statement is as preposterous as it is telling. Republicans and Democrats alike seem to agree that Chafee is the only Republican who can keep the seat. As Hourahan put it, "If we lose that seat, it'll be gone forever." ♦



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Evicting David Souter

If the justice is so fond of eminent domain, say protesters, let's seize his ancestral property and develop a charming bed and breakfast on it

By Matt Labash

Weare, New Hampshire

Logan Darrow Clements doesn't seem like the sort of fellow who'd go around stealing the houses of Supreme Court justices. He's mild mannered and laughs easily, often at his own jokes. Physically he resembles a less creepy Ralph Reed: He looks like a 36-year-old altar boy whose mom made him scrub up and dress for dinner. An Ayn Rand devotee, he heads an objectivist discussion group back home in Los Angeles. A zippy evening for the group might entail a field trip to the Stanford Linear Accelerator Center or sitting through a presentation on The Force Minimization Theory of Ethical Taxation.

As an objectivist, Clements is committed to Rand's notion of rational self-interest, self-reliance, and pretty much anything beginning with the prefix "self." Like all objectivists, he profoundly distrusts government, which has a "monopoly on the initiation of force," so he'd only seek public office reluctantly. When conscience (or rational self-interest) called in 2003, he tried to do just that in the California gubernatorial recall election. But there was a whiff of the born-loser libertarian about him. Despite proposing crowd-pleasers such as privatization of all public schools, he finished 131st out of 135 candidates. He was beaten by the likes of Angelyne, a model with no last name who wanted to paint the statehouse hot pink, and Kelly Kimball, a business executive who ran as a member of the ButtMonkey Beer party.

If Clements was a man whose causes had not yet found full employment for his talents, that all changed on June 23, 2005, the day the U.S. Supreme Court issued its *Kelo* v. *City of New London, Conn.* decision. It was also the day that Clements, in response to that decision, resolved to swipe the house of Supreme Court Justice David Souter, and put up in its place the Lost Liberty Hotel.

Matt Labash is a senior writer at The Weekly Standard.

The *Kelo* decision might well be the most important in the history of eminent domain, a term that can cause instant drowsiness among the easily bored. Though "eminent domain" sounds like a badly named subdivision, it is not as euphemistic as it seems. It derives from the Latin *dominium eminens*, meaning "supreme lordship," giving its victims an unsubtle hint as to how they'll fare if eminent domain is used against them. If the government asks you to sell your property at its price and you decline, you can be forcibly removed. It's the ultimate buyer's market.

Eminent domain's dictionary definition is "the right of a government to appropriate private property for public use, usually with compensation to the owner." That must be from an old dictionary, since "public use," after decades of constitutional erosion, has been transformed into "public purpose."

In practice, a "public purpose" is anything that land-grabbing cities and the private developers they're in bed with want. Throughout the country, cities now continually seize properties for every reason from economic development to elimination of "blight." As Dana Berliner writes in her book *Public Power, Private Gain*, "blight" these days can include "too-small side yards, 'diverse ownership' (different people own properties next to each other), 'inadequate planning,' and lack of a two-car attached garage."

Historically, the "public use" requirement meant that a local government could order businesses or homeowners to vacate their property for schools, highways, and other genuinely public works. But increasingly, people are asked to fork over their land to private interests, from chain restaurants to condo towers to yacht clubs, that local governments know will bring in higher tax revenues.

While this might sound like a perfectly acceptable tactic to an urban planner in Leningrad, circa 1925, Americans tend to look less kindly on it. Polls show up to

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93 percent reject eminent domain for private economic gain. But national outrage might very well be muted, since for every victim of eminent domain abuse, there are often two beneficiaries: the local municipality and the private business on the receiving end of the wealth they've redistributed. Not for nothing can anti-eminent domain types recite the plaint of George Bernard Shaw, "A government which robs Peter to pay Paul can always count on the support of Paul."

The *Kelo* case involved a group of homeowners in New London, Connecticut, who held out against the city and its private development corporation. The latter wished to demolish a working-class neighborhood in order to erect such public necessities as a "small urban village" and a parking lot for Pfizer employees.

Some homeowners not only declined to sell, but also sued. The case came before the Supreme Court after Connecticut's State Supreme Court ruled it was the city's prerogative to seize the homes. The U.S. Supreme Court, too, ended up deferring to the city in a contentious 5-4 split, determining that New London was on the up-and-up about its development project being for "public use," as required by the Constitution.

Justice John Paul Stevens's ambivalent majority opinion in *Kelo* was laced with caveats. He stressed that states are perfectly free to place tighter restrictions on their own takings powers. Nothing in his opinion, however, revealed his wishy-washiness as plainly as a speech he later gave to the Clark County Bar Association in Las Vegas. He stated that the court's decision was one that yielded "results that I consider unwise," explaining that "the law compelled a result I would have opposed if I were a legislator."

Bosh, said Sandra Day O'Connor in a blistering dissent that was joined by Clarence Thomas, Antonin Scalia, and William Rehnquist. Hardly known as a strict-constructionist hysteric, O'Connor maintained that the majority had effectively gutted the Takings Clause of the Fifth Amendment, which states, "nor shall private property be taken for public use, without just compensation." In the majority's hands, "public use" was now a "virtual nullity." This was like spitting in the eye of James Madison, who took his private property seriously when he wrote, "That alone is a just government which impartially secures to every man, whatever is his own."

Passing this stink bomb back to the states was an "abdication of our responsibility," a "refusal to enforce properly the Federal Constitution." Consequently, wrote O'Connor, "the specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory." Columnist Michael Kinsley put it more snidely: "The court ruled, 5-4, that yuppification is a valid public purpose. . . . Who wouldn't like a few more Starbuckses in town?"

Logan Darrow Clements

Courtesy of Freestar Media

Logan Darrow Clements, as he saw it, was on the side of the angels and the overwhelming majority of the American people. As someone who'd paid attention for years to eminent domain abuses—going so far as to donate to the Institute for Justice, the country's foremost eminent-domain watchdog—he actually chilled champagne in anticipation of the *Kelo* decision, assuming it would come down the other way. When it didn't, he was not only devastated, but moved to action.

Several years before, Clements had cashed out of his dot-com and magazine startup, which had attempted to link investors seeking innovative ideas with entrepreneurs looking for capital. The sale hadn't made him rich, but it had kept him solvent while he'd learned the video-production trade, taxed his credit cards, and started a new production company, Freestar Media. Through Freestar, he hoped to launch a syndicated show highlighting gov-

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ernment authoritarianism and dimwittedness by becoming "an objectivist Michael Moore." Looking for investors, he's already cut a few introductory shorts, such as one in which a monkey throws darts at the stocks charts, picking investments with a higher yield than you'd get from Social Security.

Clements had earlier dabbled with a San Diego eminent domain case, toying with the idea of going after a city council member's home. But when the *Kelo* decision came down, he had a new vision. It was a plan so beautifully ruthless, so poetically retributive, that it practically begged to be formalized in a press release, which he quickly drew up.

Clements decided to use the Supreme Court's own ruling, effectively permitting cities to seize homes for private economic gain, to go after the home of one of the Supreme Court's own, David Souter. If he succeeds in getting the town of Weare, New Hampshire, where Souter's house is located, to marshal eminent domain against Souter, Clements will raise funds to build his Lost Liberty Hotel on Souter's land. The hotel will also house a small museum that commemorates our trampled freedoms. His current plans call for the original house to be left standing as the site for the Just Deserts Café. Instead of a Gideon Bible in each room, Clements plans to stock a copy of the book that a Library of Congress poll said is the second most influential of all time, Ayn Rand's *Atlas Shrugged*. As one might have guessed, it's the most influential to Clements.

In *Atlas Shrugged*, the creative class ceases to create, withholding the benefits of what it most values, in order to protest statist interference. Similarly, Clements aims to abuse eminent domain in order to stop the abuse of eminent domain. If David Souter's 200-year-old home, inherited from his late mother who inherited it from her parents, can be seized for cockamamie reasons under the guise of economic development, so can anybody's.

Clements likens himself to firefighters who, to combat a raging blaze in the forest, will sometimes set small fires in its path to starve the original fire of fuel before it can become an all-consuming wildfire, thus "fighting fire with fire." His numerous critics suggest that he's engaging in vigilantism, and that this is tantamount to protesting capital punishment by killing the guy who throws the switch on the electric chair. But that's a hard sell. Vigilantes operate outside the law, and it's illegal to kill the executioner. By contrast, Clements is operating inside the law, illustrating its absurdity by using the law against itself. "Why," he asks, "should the law be beyond its own reach?"

It's the kind of hypocrisy barbecue that makes media types lick their chops, whatever their political persuasion. So when Clements's press release went out, it reverberated nationwide. After getting picked up by the likes of the Drudge Report, his sleepy little website went from 180 hits to 370,000 visitors. Checks of support came pouring into Weare's town office, even though it wasn't accepting them.

An unapologetic capitalist in proud Randian fashion, Clements started selling "Lost Liberty" items on his website, everything from throw pillows to camisoles. He was flooded with suggestions for names of dishes that he could serve in the hotel's Just Deserts Café. A typical meal might start with the Chicken Seizure Salad and Revenge Soup (served cold). For an entrée, there'd be the Bader-Ginz Burger with Half-Baked Potato or the Eminent Lo Mein. Dessert might include Rocky Road to Serfdom Ice Cream, or perhaps a nice plate of Petit Forfeitures. Even without all the annoying puns, one could easily conclude it was some kind of joke, though Clements's press release warns, "This is not a prank."

When the story broke last summer, I too believed it was just a clever stunt, a laugh-along middle finger directed at The Man. It would be over in a day. But two months later, Clements traveled to New Hampshire from California, visiting Justice Souter's house, or "the future site," as he likes to call it.

With scads of media in tow, he didn't even bother knocking on Souter's door, perhaps not wishing to seem rude, since he harbors no ill will toward Souter personally. Instead, he left behind a Lost Liberty T-shirt and a copy of *Atlas Shrugged*. When I suggest that this approach was rather un-Michael Mooreish of him, he responds, "I'm not really the stalking type. I hit from afar, sort of like a cruise missile." When asked why he chose Souter over the other four justices, he thinks a bit, then says, "Because his address was the easiest to find on the Internet."

Seven months after his opening shot, it is mid-January, and I'm standing with Clements in a strip-mall Staples in New Hampshire. It is clear now that not only is he not joking about his project, but he's as serious as an objectivist discussion group batting around "egoist reasons to have children" or the extent to which "volition" is involved "in concept formation."

He's come to the "Live Free or Die" state for a weekend of petition drives and rallies. They're being hosted by his local accomplices, an ad-hoc group of concerned citizens who wish to stop eminent-domain abuse. Nonobjectivists from across the political spectrum, they call themselves the Committee for the Protection of Natural Rights (hereafter, the CPNR). The night before the first event, Clements frantically buzzes around the store, complaining about Murphy, of Murphy's Law fame.

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Suffering from a cold on the long drive up from the Boston airport, he got lost repeatedly. He's pretty bad about asking for directions. "I have to verify everything myself," he says. "That's objectivism. You get everything directly from the source—it's part of our epistemology." Clements is making a documentary about this whole endeavor, but his cameraman had his flight delayed, throwing Clements's schedule out of whack. He needs 50 clipboards, which Staples has exactly, until one of the clips breaks, leaving him with 49. Throughout these travails, Clements remains optimistic: "You've got to confuse Murphy, use his strength against him."

He settles his tab at Staples for a couple grand's worth of materials, including several hundred copies of the 58-page *Kelo* decision, which he'll distribute door-to-door in Weare. I ask him to remind me which justices were "for" and "against." He pulls a card out of his wallet that he uses to refresh himself "in case I'm on Fox News." The bad guys, along with Souter and Stevens, are Anthony Kennedy, Ruth Bader Ginsburg, and Stephen Breyer. On the back of the card are talking points, which include: "Give me a TV show. . . . *Atlas Shrugged*. . . . New way to fight government. . . . If we get enough money, we'll go after the other four." Actually, a New Hampshire libertarian group has made noises about going after Stephen Breyer's vacation home in Plainfield. "But they're libertarian," cautions Clements, "so probably nothing will happen."

Like most Rand disciples, Clements regards libertarians as embryos to objectivists' fully formed human beings: You never know what you'll get when you bite into one. They often don't have "a common ethical background" behind their grab-bag of grievances, which range from keeping the government out of their bongs to not wanting to wear motorcycle helmets. He supports the Free State Project, New Hampshire libertarians' summons for 20,000 libertarians to move to their state. He reasons it's the only way they'll ever win elections.

But still, he finds their addiction to electoral politics to be an exercise in wheel-spinning. "It's like a big game of Dungeons & Dragons for them," he says. "They're like, 'Oh, so and so's trying to take over the party!' Who cares? Your party only has like 20 members anyways. It's silly." He speaks from experience, of course, having suffered the indignities of running for office in the California gubernatorial election.

When porn star and fellow candidate Mary Carey sat in his lap on the Jay Leno show, photos of it "ended up in Japanese newspapers," he says. "The hardline objectivists used that against me, because it's not the objectivist strategy to run for office." Even if you get lucky and win, he says, "you're not going to be able to do anything, or everything's going to be undone when you're through."

The real action, Clements believes, is in "fighting creatively," as he's doing now, turning the government's power against it. While naysayers claim that seizing Justice Souter's house won't stop eminent domain abuse, that's almost beside the point. When the Minutemen hit small portions of the Mexican border in lawn chairs, they didn't actually halt illegal immigration, but they highlighted government ineptitude as never before.

As a lifelong entrepreneur, Clements isn't a big fan of the government. Raised in upstate New York, he's the son of a civil liability attorney, "the type that raises the expense of everything we use. . . . He never ceases to disappoint me." When his dad told him of clients seeking tech subsidies from the government, Clements bristled. "Dad, you're taking stolen money," he told him.

From an early age, Clements was always looking to start new ventures. In junior high, he took over his older brother's disc jockey business. A child of the '80s, he spun Flock of Seagulls and Duran Duran at school dances, though "it didn't make me popular. I'm good at being unpopular." Ever the objectivist, Clements believes that reality should be taken as it is and not as you want it to be, so he is given to making painfully candid admissions.

A bad athlete in a school that rewarded hockey prowess, Clements says he wasn't taunted so much as ignored. It carried over into his adult life and fired his entrepreneurial spirit. "I don't think I'd make it in the corporate world, playing office politics," he says. "I'd be the first one off the island in *Survivor*. They'd gang up on me. I'd be nailed. I'm too much of a loner. I haven't been in an office environment where I'm going around high-five-ing everyone in a cubicle."

The enduring theme of most of his ventures, both prospective and realized, is frustration with government regulation. Whether trying to start a food-delivery business or matching up venture capital and entrepreneurs, he's always struck by just how difficult it is to operate. Even when he ran for governor, he says, he didn't get in much campaigning because he had to spend so much time filling out paperwork. In a way, that's why he's in New Hampshire now. He's getting his ducks in a row. Sure, government makes it look easy, but it's no small task stealing a person's house.

Weare is a typical New England hamlet, all spires and cemeteries and quaint town-square gazebos. Here, a new Dunkin' Donuts qualifies as an economic boom. There are only about 8,500 residents, even though the population recently ballooned with the influx of Massachusetts tax refugees, or "Massholes" in

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local-speak. Clements and the CPNR have a multipronged strategy. The town is run by five selectmen, two of whose terms end in March. In order to get Weare to initiate eminent domain proceedings against Souter, the insurgents must persuade three selectmen to vote for it.

The selectmen thus far have expressed unanimous distaste for Clements's project, but that in itself is an interesting plot twist, what Clements calls an "ironic pretzel." They are against the ploy in practice because they agree with the principle. In other words, they, like Clements, tend to look unfavorably on the Supreme Court's *Kelo* decision, and disapprove of using eminent domain to promote private economic gain even if the local authorities stand to reap tax rewards.

The difference, apparently, is that the selectmen are moral absolutists, believing government should never abuse eminent domain, whereas Clements believes government should abuse it just this once, to advance his scheme and promote his larger purpose. When eminent domain is employed, one often hears that it's necessary for "the public good." Clements would like to know what greater public good there is than shining a light on eminent-domain abuse by targeting the people who permit it.

To that end, Clements and the CPNR have resolved to influence the board, to put it mildly. They quickly gathered the necessary 25 signatures to land their proposal on the March ballot in the form of a nonbinding resolution called a "warrant article." Local handicapping on its prospects for success are all over the map. The warrant article currently sits in the 48th position on a 50-warrant ballot. As Gary Hopper—a former state delegate, Weare resident, and chair of the CPNR—says, it's the kind of ballot where "you sit down in the morning, start reading it, take a nap around noontime, then get back up and finish."

One board member, Heleen Kurk, told me that this entire campaign is misguided. If you don't like a court decision, you don't go around personally punishing judges. She says that, as adamantly as she opposes Clements and company, she'd feel obliged to carry out the will of the people if they overwhelmingly voted "Yes" on the article, which she doesn't think they'll do. But eminent domain loopholes should be closed in the legislature, as her state-representative husband, Neal Kurk (a Clements detractor who Clements calls "Neal Jerk"), is trying to do. In fact, just as in scores of other states since the *Kelo* decision, New Hampshire legislators are rushing to their statehouse offering all manner of anti-eminent domain legislation and constitutional amendments.

That pleases some, like the CPNR's Hopper, who says, "If legislators do their jobs, they'll stop us from taking Souter's house." But others, like Clements, think that misses the big picture. Such legislation is great for New Hampshire, but what about the rest of the country? As Bill Pierce, a Boeing employee who traveled all the way from Seattle for the rally, says, "That's like saying the federal government's pumping out poison water, but oh, if you don't want it, you can filter it out at your locality."

The second prong of Operation Steal Souter's House is to neutralize the board of selectmen by infiltrating it. CPNR web director Joshua Solomon, a local software engineer, is running for one of the two open seats. Even if they swept the election, they'd still hold only two of the five selectman positions, one vote shy of declaring open season on Souter.

But they hope that an incumbent will be converted to the cause—by a commanding "Yes" vote for the warrant article. That's assuming the article isn't gutted at an upcoming deliberative session that will finalize the ballot language. (If it is, Clements says, he's keeping the lawsuit option open.) "The way I look at this," says Clements, favoring directness over diplomacy, "Souter is sort of like al Qaeda, and the selectmen are sort of like the Taliban. We may have to remove the Taliban to get al Qaeda."

Over my week in New Hampshire, I visit the Souter homestead twice. Once, I go with Clements and Rick Dowlearn, his entertaining sidekick/cameraman who's worked most recently on the Discovery Channel's *MythBusters*. If you need an urban legend debunked on short notice, such as The Myth of The Exploding Pants, a phenomenon afflicting New Zealand farmers some years back, Rick's your man.

Even supplied with Souter's precise address, MapQuest is little help in finding it. Souter's house is tucked into the middle of nowhere, or "No Weare," as the pun-happy natives would have it. You travel through forests of pine and maple, past a go-kart track, until you get to an unpaved road called Cilley Hill which is missing its street sign, perhaps in a deliberate attempt to throw off pesky reporters.

If eminent domain proceedings were ever initiated against the house, forget the pretense of economic development. The town could probably seize it on grounds of blight. It's hard to tell where the mold ends and the peeling brown paint begins. The red barn-like garage door is rotting from the ground up. The chimney masonry is crumbling. Various windows are cracked, and the shades drawn over them are yellowed, with constellations of worn-through pinholes. The porch windows are without screens, and the fractured concrete porch itself is blanketed in drifts of wet leaves. The puddled, half-bald lawn looks like Souter's trying to run a bathhouse for blood-

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worms. The whole thing would seem to be a decoy house, where locals might send reporters to have a good laugh, except that Souter's thoroughly rusted mailbox, whose post tilts at a near 60 degree angle, bears his bleached-out name.

For the most part, the unmarried 66-year-old justice has lived in this house since he was 11, long sharing it with his widowed mother, now departed. When court's not in session in Washington, this is where he still lives. A privacy-fetishist, Souter has, over the years, earned a reputation as a parsimonious Yankee hermit. The hermit business is unfair, since he reportedly has plenty of friends. But from the looks of his wreck of a house, the charge of parsimony should stick. Souter is reportedly so cheap that a New Hampshire congressman once told the *Boston Globe* how an irate Souter burst into the state Supreme Court building, waving around an electric bill that had exceeded $30 in one month. Colleagues who regularly paid $200 "were shocked that he even had an electric bill. They figured he was still out there reading by the wood stove."

While Clements didn't even approach the door during his last visit in August, he does this time, egged on by me. "Let's start a dialogue," I implore, "it'd be good for the documentary." Clements traipses up to the patio, and knocks firmly. Nobody is home. Nobody, that is, except Souter's fulminating neighbor across the street, who starts bellowing, over and over again, "That's private property!"

Clements ignores him at first, then screws up enough vitriol to counter, "Oh yeah, teach him about private property! He just took away your private property on June twenty . . . [the exact date escapes him] . . . the end of June, you idiot!"

On another occasion, I walk about the neighborhood myself, in hopes of having more civilized encounters with Souter's neighbors. Across the street lives Jeremy Gilman, a 24-year-old Marine veteran who drove a truck in Iraq that took small-arms fire 79 times. He's unemployed, living in his parents' basement now that the seasonal firewood-cutting business has dried up. He has great affection for Souter, who he says is like a member of the family. Souter comes over for the occasional New Year's party, at which he never raises much of a ruckus (Souter's not a wear-the-lampshade type of guy). Jeremy even still cuts his grass, or what's left of it, which he's done since he was a kid. He only charges seven bucks an hour, staying in Souter's spending range, since he never had the heart to raise the price on him.

The Gilman yard is littered with all manner of debris, from rusty equipment, to pick-up trucks with beds full of discarded Mountain Dew cans, to a plastic Santa face down in the mud, looking like it toppled off the rail-less front porch. He's skeptical of the whole hotel project—he's never seen a new B&B in the area last longer than two years. He doesn't support it, since he regards Souter as a friend. But if the hotel opens, they'd better have room service, since the nearest Dunkin' Donuts is about a half an hour away.

Around the bend lives Lorry Fottler, who's out pruning blueberry bushes in a Mr. Green Jeans-like outfit. Fottler has known Souter since they were kids—they used to collect stamps together. Fottler too is quite fond of Souter, who he says stops by semiregularly, though not to talk shop. Even so, he says of the George Bush appointee, "Of course, he's been the laughingstock of the Republican party because he's certainly not been conservative." Unbidden, Fottler seeks to correct any misconceptions about Souter: "He's not gay! Absolutely not. He just seems to be an old bach."

Fottler doesn't support Clements's plan, since he too is a private property absolutist (meaning neither does he support the *Kelo* decision). When I tell him I thought Souter's house was abandoned, he says, "You're tellin' me. He doesn't make much money you know. Christ, the poor guy. You know what he told us? He said if anybody asks where he lives, tell them it's here." In fact, if Clements does get Souter's house, Fottler says the justice has an open invitation to crash in his barn.

This sort of goodwill is precisely what gets destroyed when civil society frays as entire neighborhoods are wiped out by eminent domain, one of the reasons that Winnie Ilsley, who lives down the street from Fottler, doesn't support *Kelo* either. Winnie operates a small doll shop on her property, which is closed when I drop by. I ask to see it, saying I'm genuinely interested, but Winnie's been burned by reporters before. An excellent judge of character, she says, "You're a phony, and I don't mind saying it." She's against them confiscating Souter's property, but if they do, and a hotel is erected, "I'll be the first one there." Sometimes it's nice to get away from the stresses of the doll business, even if it's just around the corner.

If the project ever goes forward, the final hurdle will be the town's building inspector, Chip Meany. I go to see him one morning in the middle of a snowstorm. None of the roads seem to be plowed, and I ask Meany if Weare's run out of money. "We just leave them like that to give you guys practice," he says.

Chip has a walrus mustache and looks like Wilford Brimley. He wears a Code Enforcement Officer badge on his belt, which brings an air of authority to the Hatfield vs. McCoy property disputes he frequently has to mediate. Meany is against the Souter taking, too, just as he's against all eminent-domain takings for private gain. But he says he'll support it if it's the town's will.

Before he does, however, he mentions many other hur-

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dles that Clements will have to clear. If Clements gets past the Tali-board, as he calls the selectmen, Meany says he'll still have to prove the project's economic viability—a shaky proposition, considering the location of Souter's property. Assuming the town would give Clements title to the house, the whole thing still might get tied up in court. Rumor has it that Souter has legal connections. But even if Clements overcame these obstacles, Meany would still deny him, because first he'd have to go to the five wise men of the zoning board to get "special exception" approval for the project. "Once that's done," says Meany, "I'll give him a permit."

It would pain him, however, to do so. "I think a statement definitely needs to be made [about eminent domain abuse], though the wrong statement's being made," says Meany. "Because when you take one man's land, you take everybody's." I mention to Meany that he just essentially made Clements's point. An old '60s radical and Vietnam vet who at least appreciates the artfulness of the stunt, Meany nevertheless adds, "It's a convoluted form of logic. It's a dog chasing its tail. Whichever point in the circle you interrupt the dog, you still have the same dog."

Others aren't so conflicted. On a Saturday morning, a small but hearty band of activists break into 15 teams, blanketing Weare to get a petition signed in order to demonstrate support for the warrant article. It's just for show. But that doesn't deter Clements. "The whole thing is pretty much for show," he says. They also invite people to the next day's rally, pass out literature touting Joshua Solomon's candidacy, and unload the paper brick that is the *Kelo* decision—a little light weekend reading for the townsfolk.

I go out with Clements and his cameraman. The houses in Weare are so widely spaced that we don't reach many of them. "I should've subcontracted with some Jehovah's Witnesses," he laments. We slide up ice-covered driveways. In his dress shoes, Clements gracefully skates across them like an objectivist Brian Boitano, cautioning us clumsier types to take small steps and to keep our center of gravity over our legs.

At door after door, bed-headed men in Patriots sweatshirts and women in Tigger pajamas greet us. With the exception of one woman, who kindly tells us her husband will shoot us if he finds us filming on their property, Clements gets a warm reception. While many Americans can't even identify their congressman, a surprisingly high number of Weare residents have heard of the *Kelo* decision. Many are well aware of the Liberty Hotel project, even if they don't recognize Clements from his appearances on *Hannity & Colmes*. In all, only two people decline to sign his petition, and one of those supports it, he just fears retribution. Of Souter, a man who doesn't typically arouse great passions, they say things like, "Get him!" and, "That idiot!" Clements smiles when they say this, turning to me and explaining, "He has his opinions. We have ours."

The next day, a healthy crowd packs the Old Town Hall, despite the AFC championship game being televised simultaneously. They hear about property rights and selectman races and also hear from Ron Bianco, America's foremost eminent domain song parodist, who treats the crowd to repurposed Dylan covers such as "Knockin' on Souter's Door."

They also hear about the only other thing Weare is famous for—the Pine Tree Riot. Before the American Revolution, King George III had dibs on the town's tall white pines, which he used for sailing masts for his Royal Navy. The townspeople were forbidden to use them, even though the trees stood on their property. But they ignored the injunction, and helped themselves.

When the sheriff came to exact the king's toll, he holed up at a local inn. Knowing this, more than 20 townsmen blackened their faces, broke into his room, and beat him bloody with pine switches. As Keith Lacasse, an architect and former hockey goalie who is also running for selectman, tells it, the townsmen then put the sheriff and his deputies on their horses and cut off the horses' ears and manes to devalue the animals. Then they "slapped them on the ass and sent them down the road, with people lining the streets jeering. And that was just over pine trees! Can you imagine if those guys were around today?"

Outside the hall afterwards, Clements is in a close huddle with a United Airlines pilot who's come from New York, and who says he'd be willing to move up here immediately and run for selectman if it'll make the difference. It turns out election rules forbid it. He missed the cutoff for residency. But his willingness innervates Clements. When I ask him what he's looking for in a candidate, he says, "They need to have a pulse, and support the project. Those are my two things."

Clements says if they don't swing this election, they'll be back come the next one. He's in it to win it, and isn't going anywhere. The project is too important to abandon: "I'd like to show them that without property rights, there is no economic development. I'd take those five justices on a year-abroad study—to Zimbabwe, North Korea, Cuba, Canada." Just kidding on the last one, he says. "But I don't have the money for a year-abroad program at my educational institute. So I thought we'd just do some home-schooling. That's what we're doing. We're doing a home-schooling program. And David Souter's our first student." ♦

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Razing New Jersey

In which developers in league with city hall come up with a curious definition of "blight"

By Jonathan V. Last

Long Branch, New Jersey

Ocean Avenue runs, with only a few interruptions, more than 40 miles along the New Jersey coast, from the northern tip of Long Beach Island all the way up to the southern entrance to Sandy Hook Bay—the effective end of the Jersey shore.

Driving north on Ocean Avenue, you're never more than a few feet from the beach, and the small towns whip by quickly, each with its own peculiar character. There's the Richie Rich enclave of Sea Girt with its multimillion-dollar mansions next to the merely wealthy town of Spring Lake, with its million-dollar homes. There's middle-class Belmar and working-class Bradley Beach. A little further north is tiny Ocean Grove—where the town's Methodist Church owns the land and leases it to homeowners. Next comes Bruce Springsteen's crumbling hometown of Asbury Park, where the girls comb their hair in the rearview mirrors and the boys try to look so hard. Go a few more miles still, and you arrive in Long Branch.

Long Branch was once a thriving resort town. From the 1860s until World War I, seven different U.S. presidents summered there. In 1869, Winslow Homer painted *Long Branch, New Jersey*, depicting a pair of Victorian women on the bluffs overlooking the surf. But, as the years passed, Long Branch declined.

Part of the decline was an unexpected consequence of urban planning. In the 1960s, in neighboring Newark, the city fathers began to experiment with public housing. They bulldozed much of the heavily Italian First Ward to clear space for housing projects. Newark residents fled to the suburbs. Some could afford the ritzier towns in Monmouth County; those of more modest means chose places such as Long Branch. By 1965, the influx of working-class residents finished off much of what remained of Long Branch's resort culture. Downtown businesses moved out, and the town went into further decline, which wasn't helped when, in 1987, the town's last tourist attraction, a large pier on the boardwalk, was destroyed in a fire.

Today, however, Long Branch is on the brink of a rebirth. Young people with wads of disposable income are flocking to it; upscale businesses—trendy coffee shops and hip designer boutiques—are back. These victories are the fruits of 12 years of planning done by the mayor, city council, and a consortium of local businesses. It is a testament to the power of eminent domain, as blighted old neighborhoods were bought up and cleared to make way for the new developments. But, while Long Branch may look like a success story, it is actually a cautionary tale.

The traditional American understanding of eminent domain is summed up in the text of the Fifth Amendment, which places two limits on the power of federal and state governments to take private property. Land can be taken only "for public use"—a new highway, for instance—and it cannot be taken "without just compensation." Last year, in a controversial 5-4 decision known as *Kelo* v. *New London*, the Supreme Court upheld the extremely elastic definition of "public use" that undergirds most modern urban renewal schemes—namely, that a private developer's promise of "increased tax revenue" counts as a "public purpose." In other words, simplifying only slightly, the government can compel you to sell your house to a developer who promises to build a more expensive one. In the wake of the *Kelo* decision, Long Branch is a case study in what the use—and the abuse—of eminent domain means to middle-class America.

When things went awry for Long Branch after the 1960s, the city of 31,000 hollowed out. Drugs became rampant, much of the town fell into disrepair, crime took hold. It got so bad that, on February 21, 1994, in the middle of a heated mayoral election, a drug-related riot broke out, with a crowd of 300 residents throwing bottles, vandalizing cars, injuring two police officers, and burning down two vacant homes. Five rioters were arrested, and Mayor Adam Schneider was forced to declare a curfew. Schneider won reelection in 1994 and is still mayor today. From that hotly contested race, the plan to redevelop Long Branch was born.

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Schneider had long been a proponent of redevelopment, and in 1994 the stars began to align. The Monmouth County beaches, diminished from years of erosion, were about to get a facelift, courtesy of the Army Corps of Engineers. A group of some 40 local businessmen headed by Robert Furlong, who owned a number of local clothing businesses, had just established a private redevelopment arm, Long Branch Tomorrow, to help goose the process.

Furlong's group raised $165,000, and used the money to hire the Boston urban design firm of Thompson and Wood. Long Branch was playing in the big leagues: Thompson and Wood had been responsible for redesigning Baltimore's HarborPlace, Boston's Faneuil Hall, and Washington's Union Station, among other projects. According to the *JAPA*, the magazine of the American Planning Association, Furlong made this move "entirely on his own." Over the next seven months, planners from Thompson and Wood met with members of the Long Branch government and Long Branch Tomorrow 20 times to discuss what redevelopment of the town's coastline might look like. In July 1995, they delivered their master plan, a slick, 67-page document that outlined a dramatic vision.

The basic idea was to take 135.5 acres of land along the ocean and turn it into a mixed-use, urban renewal utopia, complete with bike paths and walkways and condominiums and high-value commercial zones. The plan called for private developers to invest nearly $1 billion in creating residential and business units and another $16 million in "public improvements" for the beachfront area. The document was public, and some residents—particularly those in the prospective redevelopment zone—were nervous. But the master plan was filled with reassuring language. "Not by sweeping reform but by an incremental process, new buildings and blocks will fit in among the old," it promised.

"To avoid the clean-sweep practices of contemporary urban renewal yielding antiseptic uniform 'projects,'" the plan continued, "we recommend an incremental approach that is rather like repairing a valuable patchwork quilt." On the proposed map, some of the land was slated to be remade in its entirety; other portions were marked as "residential infill."

One such "infill" neighborhood, known by the unwieldy acronym MTOTSA (for Marine Terrace, Ocean Terrace, and Seaview Avenue, the three streets which bound the area), was a refuge for longtime homeowners. Unlike many other parts of Long Branch, the MTOTSA neighborhood was still an enviable place to live. It wasn't chi-chi, but its 37 well-cared-for properties, home to both retirees and working families, made it one of Long Branch's last middle-class enclaves.

Since the MTOTSA neighborhood was marked for infill, not demolition, on the plan's colorful maps, there was no great objection to the master plan. Amid all the happy talk, a single sentence, buried on page 29, might have set off alarms in the mind of a wary citizen. There the master plan recommended "small-parcel infill with the option of upgrading and densifying existing dwellings to multi-family units." No one noticed this important modifier.

The city of Long Branch adopted the plan.

That was only the first step. Since the late 1970s, developers along the Jersey Shore have been forced to deal with the state's byzantine Coastal Area Facilities Review Act, administered by the state Department of Environmental Protection. By forcing developers through a rigorous clearance process, the act often slows down redevelopment in beach communities. According to *JAPA*, the Long Branch planners "decided that the only way to 'beat' CAFRA was to change it. They believed the agency could be persuaded to give the Long Branch plan blanket approval." They were right. In May 1997, after two years of lobbying, the state ceded its CAFRA authority to Long Branch. In effect, the city of Long Branch was now responsible for signing off on the environmental protections for its own project. The setup was unprecedented and so attractive that five developers immediately submitted plans.

Two years later, the city council selected its developer: Applied Development, of Hoboken, New Jersey. For the president of Applied, Joseph Barry, the deal was a labor of love. His son, David Barry, told *NJ Biz* that when Joe was a teenager he spent his summers in Long Branch. "Nostalgia" was one of the reasons Applied bid on the job, David said.

Of course, there were other reasons. Governor James McGreevey, at the groundbreaking ceremony in April 2002, reaffirmed an $11.2 million pledge in state aid to Long Branch. The city in turn sold some parcels it owned to the developer at below-market value, and then helped arrange $18 million in state low-interest loans to acquire other properties, paving the way for a condo development known as Beachfront North Phase I. To help with the project, Applied brought on a partner, Matzel and Mumford, a subsidiary of development giant K. Hovnanian.

In Phase I, Applied acquired 140 homes. Most of the residents went quietly. After all, in a February 2000 *Asbury Park Press* article, Joseph Barry had warned, "The holdouts will be losers." Nonetheless, some residents held out, causing the city to invoke its power of eminent domain. Bruce McCloud was a loser. Forced out of his home a few days before Thanksgiving, he was put in a motel and given $140,000 as "fair compensation" for his 17-room Victorian house, 400 feet from the beach. Many other homeowners were given similarly meager compensation. For instance,

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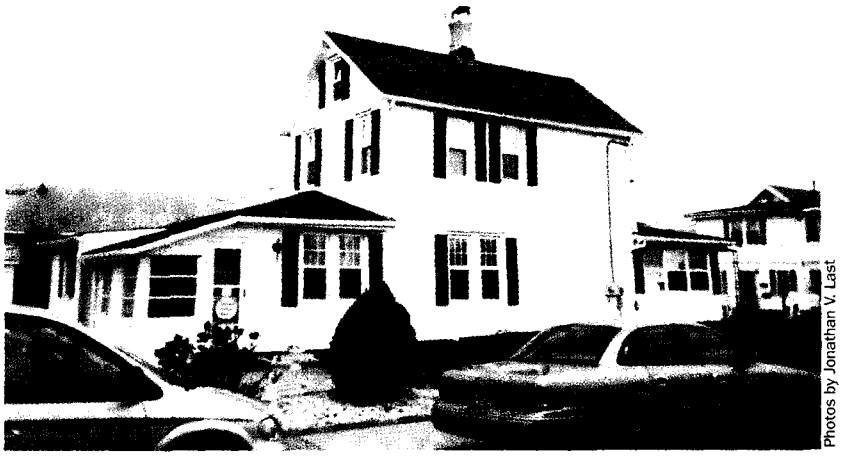

Photos by Jonathan V. Last

Rose LaRosa's father bought this MTOTSA house in 1942; the family's owned it ever since.

Fred and Dorothy Strahlendorf were given $179,500 for a house 235 feet from the beach. Twenty-one homeowners sued the city after the fact, with varying degrees of success. The Strahlendorfs, for instance, had their compensation adjusted upwards to $500,000.

On the land acquired in Phase I, the developers built not the glorious, integrated residences imagined by the master plan, but a series of bland, cookie-cutter condos and townhouses—a total of 283 units, which sold for between $600,000 and $1.2 million.

There were other unpleasant surprises in store for residents who had been impressed by the original master plan. Somewhere along the way, the MTOTSA neighborhood was marked for "redevelopment"—not infill. Thirty-eight homes were about to be obliterated, against their owners' wishes. No formal announcement was ever made about the change of plans, but MTOTSA residents noticed strange signs—the first of which was that they could no longer get city permits to improve their homes. For instance, when Denise Hoagland sought a permit to lift the roof of her house in 2000, her application was denied. After she was rejected, the city asked her to sign a waiver saying that if she did raise her roof, she would waive her right to compensation should redevelopment occur.

By November 2003, the city had all but given up the pretense that the MTOTSA neighborhood would be spared in the next round of redevelopment. Residents presented the council with a petition with 500 signatures protesting Phase II. Mayor Schneider took a sympathetic stance: "We're going to get you involved in the process," he told the *Asbury Park Press*. "Let's hear [residents'] ideas about how and why their homes can be saved." MTOTSA homeowners provided the city with an alternative plan, which the city council rejected.

In January 2004, residents met with Schneider and Paratap Talwar, the Thompson and Wood designer who had authored the master plan. According to the press account of the meeting, Talwar explained that, contrary to the vision of his original plan, razing the MTOTSA homes was "necessary to the success of the plan." Schneider, for his part, claimed to have done the homeowners a favor. The *Asbury Park Press* reported that the mayor thought "the city could have acquired the homes in 1997 when the development was getting under way, but instead allowed those residents to reap the benefits of redevelopment." According to a report in the *Asbury Park Press*, however, Schneider told an October 2004 city council meeting that the plan couldn't be changed because "the city in 2000 signed a contract with the developer, and so any diversion from that would have to be consensual."

Residents, however, might have missed the mayor's flip-flops because of some distracting news: That same month, Joe Barry, the president of Applied Development, was sentenced to 25 months in prison. Barry had been caught making $115,000 in payoffs to the executive in neighboring Hudson County. In addition, he was fined and ordered to repay $1 million he had scammed from federal agencies. At the sentencing hearing, Barry's attorney argued for leniency based on his client's passion for "social justice." David Barry, the son, took over the helm at Applied. The redevelopment in Long Branch rolled on undisturbed.

By 2005, the effort to save the MTOTSA neighborhood was gaining wider attention. A February rally drew 250 eminent domain protesters to Long Branch. The *New York Times* and National Public Radio both did stories about the fight. The town council, girding for a legal battle, began doling out contracts to law firms. At an April meeting, the city awarded a $25,000 contract to the firm of Ansell, Zaro, Grimm, and Aaron—the Aaron of which was James Aaron, who also held the post of city attorney. A $75,000 contract was given to the firm of Greenbaum, Rowe, Smith & Davis to handle eminent domain proceedings. A month later, yet another firm was retained for $25,000. At a town meeting, after Aaron's firm was given an additional $30,000, a resident asked the city attorney who was paying for all of the lawyers. "The developers are funding it," he replied.

Which brought on an interesting moment in May, when a local weekly paper, *Atlanticville*, broke the story that

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Arthur Greenbaum, of Greenbaum, Rowe, had a personal stake in the redevelopment: He sits on the board of directors of Hovnanian Enterprises—the parent company of Matzel and Mumford, the developer that Applied had quietly let in on the action after winning the contract to remake Long Branch.

The city administration went into damage-control mode. Mayor Schneider flatly asserted that Greenbaum's dual roles "will not be a conflict of interest." Aaron, the city attorney, declared that "the interest of the city and K. Hovnanian are the same." Greenbaum held on for awhile, but in July "reluctantly" withdrew his firm as counsel, insisting there was "no basis to suggest that the city has been engaged in 'impermissible favoritism.'"

Meanwhile, the city negotiated with MTOTSA residents, to little avail. One resident was offered $625,000 for his house—a property that includes rental units. Three others were given offers in the low $400,000s. One of these, by way of example, is an 1,800 square-foot bungalow with ocean views, a block from the beach. Six offers were in the low $300,000 range; one, a two-story cottage a block and a half from the ocean, was for $210,000. The offers were not comparable to local real estate prices on the private market. Over the last three years, one local reporter calculated, the average sales price of single-family homes in Long Branch was $464,507. As of December, there were 103 active listings in Long Branch with an average asking price of $658,773; few of these boast the ocean views enjoyed by many of the MTOTSA homes.

A supposedly "blighted" property in the way of Beachfront South

Nonetheless, the city moved ahead with its eminent domain proceedings. The Newark *Star Ledger* explained the Orwellian nature of the affair: "The city has already declared these homes 'blighted,' although they are neat bungalows and ranch houses with solid roofs, carefully tended lawns, and flowerpots on porches." The reason for this declaration of "blight"? "Under New Jersey law . . . towns are allowed to seize only blighted properties." The irony, of course, is that the MTOTSA neighborhood is one of the few sections of Long Branch that isn't blighted.

As the fight intensified, some local politicians rallied and held a fundraiser for MTOTSA. Mayor Schneider began to come unhinged. "You can't do [massive redevelopment] on a patchwork basis," he protested, abandoning the comforting "patchwork quilt" metaphor in the city's master plan. In another fit of pique, Schneider said that the MTOTSA residents had only themselves to blame. They should have lawyered up as the city did: "If they had gotten proper legal representation and put together a plan to oppose this project when we began to study it in 1995," he explained, "it's likely this project never would have passed." The mayor had a good point. Which may be why the original plans went out of their way to reassure residents their homes would be safe.

Perhaps sharing his imprisoned father's passion for "social justice," developer David Barry described the residents as "opportunists looking for higher prices for their property, or the limelight."

In December, Long Branch filed a complaint in state Superior Court asserting its right to take the MTOTSA properties. It wants to bulldoze them to make room for 185 more condominiums. *Atlanticville*'s Greg Bean predicts that the units will sell for between $400,000 and $2.2 million. "The total amount offered to MTOTSA property owners named in the complaint," Bean writes, "is just south of $4.1 million." The residents of MTOTSA are fighting back, and the beginning of the court brawl is scheduled for February 24. The homeowners have worked closely with both local counsel and with the Washington-based Institute for Justice, which represented Susette Kelo in her case against New London, Conn., which ended up before the Supreme Court last year.

The leaders of Long Branch are undeterred by a court fight. Four days before Christmas, the city council authorized another $300 million redevelopment zone, Beachfront South, which will empower K. Hovnanian to raze 30 properties in 2007 and replace them with 352 condos, priced from $600,000 to $1.2 million. Some of the doomed properties present an even stranger picture of "blight"—big, beautiful houses facing the ocean, with nothing between them and the beach except wide, rolling lawns. They would not look out of place in a Homer painting.

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"A valuable patchwork quilt?" Long Branch's antiseptic new oceanfront condo development

In many ways, Long Branch is the perfect storm of the *Kelo* era: a misleading master plan, an unprecedented exception from state environmental regulation, shifting redevelopment zones, a developer jailed for corruption, a lawyer working both sides of the deal. New Jersey residents are particularly vulnerable to this kind of forced redevelopment. As the Institute for Justice's Scott Bullock explains, the prime targets for developers are typically low to middle-income communities with waterfront homes within commuting distance of a major city. New Jersey is essentially two giant suburbs—of New York and Philadelphia—with an enormous coastline, as well as numerous interior rivers. That's why there are redevelopment clashes shaping up all along Ocean Avenue—in Belmar, Neptune, Asbury Park, and other towns. Currently 64 municipalities in New Jersey are pursuing redevelopment through the power of eminent domain, with developers trying to seize homes everywhere from Camden to Stanhope.

When Justice Sandra Day O'Connor wrote in her *Kelo* dissent that "the specter of condemnation hangs over all property," she wasn't scaremongering. No one wants to use eminent domain to redevelop the parts of Long Branch that are actually blighted—such as, for instance, the abandoned building across from city hall. The logic of *Kelo*-style takings is to redevelop *attractive* land—regardless of who lives there.

Now that the Supreme Court has declined to protect homeowners, that duty has fallen to the states, with mixed results. Six states have already held that "public purpose" economic condemnations are constitutional. Nine have decided that they are not. The other 35 are scrambling to figure out the politics of the issue.

In New Jersey, the MTOTSA residents are hoping for salvation from the courts, but if that fails, they may find relief in the political process. Last fall, state senator Diane Allen proposed legislation for a two-year moratorium on eminent domain takings. That measure stalled, but during the gubernatorial race, candidate Jon Corzine also made noises friendly to the idea: "My principle on this issue is a simple one," he explained. "There should be no taking of homes for economic development except in rare and exceptional circumstances." Now that Corzine has been sworn in as governor, it remains to be seen how he defines "exceptional circumstances."

In Long Branch, it isn't clear that redevelopment has made anyone happy. The intricate, flavorful visions of the master plan have been realized as drab monoliths that look uncomfortably like Yuppie versions of Soviet-era housing projects. One wonders if the townsfolk will find the benefits enough to make the project worth the trouble. Even the master plan's idealistic projections envisioned only an extra $7.8 million in new tax revenues, and the "public use" features are modest: A series of "gateways" by the boardwalk that will house restrooms and storage space; one of them will host a concession stand. Robert Furlong, who conceived the Long Branch plan, died in 2000, before even one of the condominiums he had fought so hard for was built.

For his part, Mayor Schneider has internalized the struggle. He refers to himself as the "poster child" for *Kelo* protesters. In a recent speech to New Jersey's League of Municipalities, he boasted, "Six months from now, I'm going to run again. I don't know if the Institute of Justice [sic] is going to fund the campaign against me, but I can live with that." The event was sponsored by K. Hovnanian.

As they wait to learn their fate, the longtime residents of MTOTSA are worried and dismayed. As 79-year-old Anna Defaria told the *Star Ledger*, "We lived through the slum era and this is the thanks we get." ♦

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Hamas's Rock Star

By day he was an engineer working for the city of Dallas. On weekends he entertained at fundraisers for a terrorist group.

By Todd Bensman

Dallas

Just days after his party's upset landslide in the Palestinian elections, Hamas's supreme political leader, Khaled Meshal, was thrust into an unfamiliar spotlight, on the front page of the *New York Times* and in the looping reels of cable news shows. The whole world seems these days to hang on every defiant word Khaled utters from his hideout in Damascus, where he's been ducking Israeli assassins the last several years.

Khaled's newfound top billing is all the more striking since his name recognition had long been confined to the smallish geography of the Arab-Israeli conflict and an even smaller circle of Western intelligence experts. Now, the reviled terrorist leader, outlawed by the Americans and hunted by the Israelis, has pulled up a seat at the international table.

If, by the end of last week, Americans were unsure how exactly to react to the Hamas leader, there's been no such ambivalence about Khaled's kid brother, who lives in President George W. Bush's home state of Texas. The feds have corraled Khaled's half-brother Mufid in Dallas, in what is currently the administration's signature domestic terrorism case. He is expected to go on trial later this year.

It was a big surprise in Dallas when Mufid Abdulqader, a publicly mild-mannered civil engineer employed by the city, was named on July 26, 2004, with six other men, in a 42-count indictment of the Holy Land Foundation for Relief and Development. The feds say the Holy Land Foundation was a bogus North Texas Muslim "charity" that had actually served since 1989 as Hamas's largest clandestine source of funding in the United States—collecting "over $57 million" in donations between 1992 and 2001. So important did the administration consider the Holy Land Foundation's role in the financial infrastructure of international terror that President Bush himself announced its closing in a December 2001 Rose Garden event.

But there were bigger surprises about Mufid, beyond the striking fact that his older brother served as the supreme political leader of Hamas. Since coming to America in 1980 and gaining citizenship, he has lived a double life that at once defines the differences between the brothers and underscores a chilling ideological sameness—mainly their shared fondness for the idea of murdering Jews.

While the government says Khaled is a stone-cold deployer of suicide bombers, Mufid was a singer in a troupe that toured the country. It wasn't exactly feel-good music in the conventional sense. Mufid's Al Sakhra ("The Rock") band crooned a gospel of death and hatred toward the Jews at Hamas fundraisers, while the collection plates moved through wildly enthusiastic Arab-American audiences.

The stern Khaled Meshal may have been known for his angry praise of martyrs who'd blown themselves up amid Israeli civilians. But Mufid the engineer could liven up a roomful of fellow technocrats with backslapping, disarming goofiness. Thickening a bit at the age of 46, Mufid wore his graying black beard heavy on his cheeks, as is customary for many pious Middle Eastern men. The full head of bristly black hair and limber eyebrows, which he often flexed sharply upward for comic effect, made him come off as a big, smiling teddy bear of a man to his former city colleagues. Mufid was a toastmaster, and he loved the spotlight, relishing any excuse to get up in front of a crowd.

A Palestinian who grew up in Kuwait and a proud father of three U.S.-born daughters, he never turned down an invitation to lecture high school students about the struggles he endured as an immigrant searching for a better life in America. But if he masked his secret life while at City Hall by day, the Arabic lyrics he sang at weekend Hamas fundraising gigs across the country, from New Jersey to California, left no doubt about his true feelings.

With all the fist-shaking angst of a rock star, Mufid would urge violent holy war and glorify the martyrdom of suicide bombers. Sources close to the upcoming trial say the FBI will likely play video of Mufid's Al Sakhra performances for the jurors. The federal government, in its July 2004 indictment, made only brief reference to his show-

Todd Bensman, a reporter in Dallas, works as an investigative producer for CBS-11 News.

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Mufid Abdulqader, from videos of his musical performances at Hamas fund-raisers

business side, noting that Mufid "performed skits and songs which advocated the destruction of the State of Israel and glorified the killing of Jewish people."

"Our people in Al Aqsa are out to revenge, to destroy the enemy; our revolution is spread throughout the land!" Mufid cheerfully sang in one number. "With Koran and Jihad, we will gain our homes back, hey, hey, hey! My precious eyes are for Palestine, the agony of death is precious, killing Jews . . . Death to Jews, is precious. Jews will not fear threats, only action. So Hamas, hit them with the shoe bottoms of Islam and Hamas!"

In the videos, masked jihadists in camouflage uniforms march menacingly to the band's drumbeats. Children take the stage to perform pantomime stabbing and shooting motions to the beat. One child points a toy gun at the sky, marching in place on stage. During brief intermissions, speakers take the stage to recite old Jewish-conspiracy canards.

Collection baskets circulate among audience members at the conferences. At various times, in the style of a public television fundraiser, large donations are announced publicly from the podium, amid signs and banners.

"If they cut off your water supply," reads one banner, "then Hamas will satisfy your thirst with blood."

All of this was legal until 1995, when President Clinton designated Hamas a terrorist organization. But an examination of amateur videotapes of Mufid's performances shows Al Sakhra's lyrics were no less inflammatory after that date. In 1996, for instance, Mufid and Al Sakhra performed at a crowded New Jersey conference. Among their lyrics: "With holy war, we regain the land. No to giving in. The blood of martyrs will fall like the water of rain. . . . To Jerusalem let's go. The sacrifice is calling."

Concert performances aside, Mufid's legal problems have to do with the Holy Land Foundation's main mission, the collection of money. Until President Bush shut them down soon after 9/11, Holy Land Foundation officials fiercely defended the claim that they served only orphans and widows in the West Bank and Gaza Strip. Successive courts all the way up to the Supreme Court, however, agreed with the Bush administration's assertion that the foundation was never more than a money-laundering front for Hamas, and a poorly disguised one at that. And it's his talent for raising money that may implicate Mufid, more than any singing and dancing.

A recently unsealed arrest warrant affidavit states that Holy Land Foundation insiders considered Mufid one of the outfit's top fundraisers. The foundation sent him all over the world. He returned to high praise from one trip to Colombia with $85,000 in hand. Photos in Holy Land Foundation literature show Mufid at a table crowded with other volunteers, tabulating what appear to be donations to the cause.

Mufid no longer works for the city of Dallas. He was fired after FBI agents arrested him and the indictment was unsealed in the summer of 2004. A magistrate ruled him harmless enough to remain out on bond until the trial. But at one point during the investigation, the discovery of Mufid's family connection to Hamas royalty, along with his Holy Land Foundation ties and his performances with Al Sakhra, so alarmed the FBI that agents penetrated city offices on cloak-and-dagger surveillance missions.

Mufid's family hails from the West Bank farming village of Silwad. His half brother Khaled was born in 1956; Mufid was born four years later to a different mother. In 1967, Israel occupied the area after beating back a five-army Arab attack, and the family retreated to the burgeoning oil kingdom of Kuwait. There, the brothers lived among thousands of resentful former Silwad residents who would stew over the failure of yet another Arab attack on Israel in 1973.

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Mufid and Khaled both graduated from a Kuwaiti high school. Khaled became an anti-Israel student activist at Kuwait University while earning a degree in physics. But Mufid was bound for America. In August 1981, the 21-year-old made his way to Oklahoma State University in Stillwater to study engineering, earning a bachelor's and a master's degree. By 1988, he had married a native Oklahoman. He became a naturalized citizen, and went to work for the Oklahoma Department of Transportation as an engineer.

As he would later do in Dallas, Mufid won over his colleagues with his talent and, as one letter of recommendation put it, his "super personality." By this time, he had already discovered that he liked the spotlight. "Mufid is a fellow member of Toastmasters International where he has worked to improve his public speaking," one former coworker wrote in 1992. The recommendation went on to describe him as "civic-minded, honest, and an asset to the community."

But nothing in the public record alludes to his singing career, which was already taking off. A 1992 video places him and Khaled at a major Hamas fundraising conference in Oklahoma City. To a single droning drumbeat, Mufid and the members of Al Sakhra, all wearing traditional kaffiyeh headscarves and desert robes, sang: "I have nerves of steel, and no threats scare me. Only the one who is proud of carrying the rifle will succeed. No to the peace conference! Yes to jihad!"

Khaled, who was still climbing the ranks of Hamas's political bureau back in the Middle East, praised what he called the brave acts of martyrdom that had characterized "the blessed uprising" since the Persian Gulf war. He promised that the jihad would continue unabated "with the power of Allah."

In 1996, Khaled was elected chairman of Hamas's political bureau, which directly controls its "military" operations. That year, Mufid and Al Sakhra performed at a crowded New Jersey fundraising conference to benefit Hamas, by which time Clinton's classification of the group as terrorist had made fundraising for it a federal crime. Mufid sang: "Mother, when they bring you the good news of my martyrdom, remember how I sacrificed my head and heart. With my blood I mark the way for my children, and under the ash, Mother, there is still fire."

Later that same year, the city of Dallas hired Mufid. He departed Oklahoma City on exceptional terms with his employers. One lamented in a recommendation letter that Mufid "will be greatly missed" and "hard to replace." But by then he was already on the FBI's radar. In 1993, not long after the Holy Land Foundation set up its headquarters in the suburb of Richardson just north of Dallas, the organization's officers had been swept up in an FBI bugging operation. Mufid was identified as one of 25 individuals attending an invitation-only "Hamas conference" in Philadelphia. The FBI bugged a conference room there, as attendees discussed ways to cover up their ties to Hamas. "Participants . . . resolved the 'Movement' should not publicly acknowledge receiving instruction from a foreign power," the FBI surveillance report reads. The members also vowed to support jihad and raise funds at 15 festivals across the country.

Those who have investigated the Holy Land Foundation-Hamas nexus say this meeting in Philadelphia represents a watershed moment in the government's understanding of how Hamas had opened support bases throughout the United States. The Islamic Resistance Movement, or Hamas, was created in 1987 by the international network of Islamic fundamentalists known as the Muslim Brotherhood. The Brotherhood created Hamas to add more punch and organization to the Palestinian uprising against Israel. According to the federal government, as the Hamas organizational chart developed, the Brotherhood began spinning out a variety of other organizations on U.S. soil designed to support Hamas's goal of replacing Israel with an Islamic theocracy.

According to the government, the Occupied Land Fund, which in 1992 changed its name to the Holy Land Foundation, was to pose as a charity while serving as Hamas's primary source of income. After the attacks of September 11, 2001, the Department of Justice stepped up its investigation to prove that foundation funds had been used, in part, to support the families of Hamas suicide bombers.

Tino Pérez, a retired supervisor of the FBI squad that investigated the foundation, said the bureau was drawn to Mufid's performances at the movement's political festivals, where tens of thousands of dollars were raised. Pérez says the FBI realized that the popularity of Mufid's band roused audience members to give to jihad operations, and investigated whether the performances violated antiterrorism statutes. "They were like a top 10 group," Pérez says. "People loved to hear them. If it fired up the troops to give more money, then all the better."

Mufid, who maintains his innocence, declined requests to be interviewed. Mufid's attorney, Marlo P. Cadeddu, has also declined to be interviewed but emailed a statement. "I will say," Cadeddu wrote, referencing Mufid's performances, "that in the United States, the right to express your political beliefs is protected by the Constitution."

But Pérez says free speech is not at issue. "We were not looking at this guy because he was expressing his First Amendment rights," he says. "It was his support for financial gain for Hamas. There's no First Amendment right if it's in support of terrorism."

Nonsense, say some members of the North Texas Muslim community who know Mufid. "What I heard from

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him," says Iyas Maleh, president of the Dallas/Fort Worth branch of the Council on American-Islamic Relations, "is that he has a band and they play music and sing songs and [the Holy Land Foundation] used to invite them to their fundraisers to sing. To be indicted for such activity is ridiculous."

Much less is known about how authorities view Mufid's relationship with his half brother. Was Khaled, through his younger brother in Dallas, pulling the strings that kept Hamas flush with U.S. donations? The July 2004 indictment, the first public disclosure of the relationship, offers no clues.

It wouldn't have been easy for the two to express much brotherly love. Until this year's election victory, Khaled was a hunted man. He survived a botched Israeli assassination attempt in 1997 in Jordan, when his bodyguards caught two Israeli intelligence agents who tried to poison him. To its great embarrassment, Israel was forced to exchange for them Hamas's imprisoned founding spiritual leader, Sheikh Ahmed Yassin. (The Israelis later assassinated Yassin as part of a program of "targeted killing" of terrorist leaders.)

Two government sources closely involved in trial preparation say that prosecutors plan to fully explore family relationships at trial, including much more than is now known about the brothers. The two have maintained contact by telephone, and Mufid has visited his brother overseas from time to time, one knowledgeable source said. An August 2003 Treasury Department "fact sheet" on Khaled accuses him of accepting diverted charitable donations of the kind that the Holy Land Foundation is uniquely suspected of distributing. "Funds transferred from charitable donations to Hamas for distribution to the families of Palestinian martyrs have been transferred to the bank account of [Khaled Meshal] and used to support Hamas military operations in Israel," the fact sheet states. Sources close to the trial say the recent political success of Hamas is not expected to play any role in the upcoming proceedings.

While the familial tie must certainly have imbued Mufid with some stature among stateside Hamas activists, his attorney questions the relevance of the relationship. "We . . . do not hold people legally responsible for things their relatives do," Cadeddu wrote. Steven Emerson, founder of the Investigative Project on Terrorism, a private research institute in Washington, says, to the contrary, Hamas and other Palestinian terrorist organizations have been built on strong family ties. "It wouldn't surprise me if investigators would be interested in exploring aspects of Abdulqader and Meshal's relationship. The fact that the half brother of the leader of Hamas was working for one of the most prominent Muslim charities may have raised a red flag for law enforcement officials."

Incontestably, the Dallas FBI's discovery of the sibling relationship in late 2001 or early 2002 caused real alarm at the time. Agents realized then that thanks to his engineer's job, Mufid Abdulqader had access to Dallas's most important infrastructure—gas lines, water plants, electrical grids, and maintenance tunnels under the commuter rail system. The building where Mufid worked contained a special room known as "The Vault," where detailed blueprints are made available to the civil engineers. With Hamas having reason to be furious over Bush's shutdown of the Holy Land Foundation, FBI officials had to assume the worst: Dallas could be in grave danger.

But the FBI had no evidence to arrest Mufid, so agents in the spring of 2002 turned their attention to neutralizing the threat they believed he might pose. That's when the FBI crept into Mufid's offices after hours, armed with a FISA warrant.

The surveillance operation, however, did not yield anything damning. So on April 2, 2002, agents approached Mufid away from work and requested an interview. He turned them down cold, further worrying the government. (Mufid later did submit to an interview with the FBI, in the company of his defense attorney.) The next day, in a highly unusual move, Dallas FBI Special Agent in Charge Danny Defenbaugh had a letter delivered to Dallas Mayor Laura Miller pressing for an administrative solution. Just what solution wasn't made clear, and Defenbaugh refuses to speak about it today. The letter offered this warning: "[Mufid] is believed to have access to detailed technical plans pertaining to the city's infrastructure. . . . In light of the events of September 11, 2001, this letter is being brought to your attention for whatever action you deem legal and necessary."

Astonishingly, Miller never read the letter. The official letter warning of a possible terrorist mole at City Hall got lost in the paperwork shuffle during her recent election, she later said, and Miller never saw it until a reporter drew her attention to it in 2005. As mayor, however, she worked closely with Mufid on an important downtown redevelopment project called the Bishop Arts District, and has expressed high praise for his work in interviews.

To this day, no evidence has surfaced that Mufid posed a serious public safety threat. The judge who set him free on bond certainly doesn't think he did.

It is unclear when Mufid last performed. His band, now known as Al Nojoum ("The Stars"), runs a website offering tamer fare on its CDs. Even if he is no longer singing publicly, Mufid Abdulqader has still found his way to a center stage, of sorts. As he awaits his trial, he has lately been spotted giving religious lectures at a Dallas-area mosque. ♦

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Man of Mind

What was Friedrich Nietzsche thinking?

BY LAWRENCE KLEPP

Bettmann / Corbis

Geniuses bequeath their works to the world, and their flaws to their disciples. Nietzsche, who had plenty of flaws, acquired after his death a particularly large collection of grotesque, self-proclaimed disciples, including Gavrilo Princip, the Serbian assassin who set off World War I, Mussolini, who named him his favorite philosopher, and assorted Nazi professors and propagandists. On a more comical note, American university postmodernists have lately made him their philosophical mascot, while cultivating the resentment of "Eurocentric" high culture that he had called nihilism and an opaque, convoluted, and humorless academic prose style even worse than the German ones to which his own style—witty, incisive, and acrobatic—was meant as an antidote.

He once wrote that he was "terrified by the thought" of what sort of people might someday invoke his name. But since he was by temperament an extremist, always looking for edges and deep ends, intellectual Alps to climb, philosophical cliffs to walk off, he bears some responsibility for the misappropriations. Even when he was just complaining about the complacencies of bourgeois Europeans, he couldn't resist scorched-earth formulations and drastic metaphors. It was always going to be easy for other kinds of extremists with aims that would have appalled him to pocket his ideas, or at least his polemical excesses, while marching off their own cliffs.

Friedrich Nietzsche
by Curtis Cate
Overlook, 689 pp., $21.95

It also helped, for purposes of misunderstanding, that he was probably the most unsystematic philosopher in Western history, writing in aphorisms and soaring, scathing, metaphor-charged prose. This has been to his disadvantage in terms of deciding, much less defending, what he "really" meant, but a plus in terms of philosophical longevity. Systematic thinkers attract hordes of dogmatic disciples who can easily detach the system from the thinking and apply it to the front page of the newspaper, or whatever else comes along, greatly extending its influence. But systems can suddenly become untenable or, worse, unfashionable and collapse quickly. (In the case of Marxism, as quickly and conclusively as the Berlin Wall.)

Nietzsche has been buried quite a few times, but for an atheist, he's had a lot of resurrections. During the 1890s, when he was still alive but hopelessly mad, and for several decades after his death in 1900, he had a brilliant career in bohemian and radical circles throughout Europe and America as the mystical prophet of a liberating Life Force, a champion of uncompromising individual self-realization and freedom from outmoded conventions. Femi-

Lawrence Klepp writes from New York.

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nists embraced him despite some glaring misogynistic passages, and socialists and anarchists enlisted him despite his hatred of the French and other revolutions.

The Nietzsche whose image can be found in the paintings of Edvard Munch and Giorgio de Chirico, and whose quoted words resonate in *Long Day's Journey into Night* and in the Joan Crawford film *Rain* is this bohemian-artistic-vitalist Nietzsche, the exponent of passionate creativity, the sentinel before the enigmas and abysmal depths of life. But there were also the psychological Nietzsches of Alfred Adler and Otto Rank, the cynical-satirical Nietzsches of G.B. Shaw and H.L. Mencken, the visionary-surrealist Nietzsche of Georges Bataille, and, after World War II, a *film-noir* existentialist Nietzsche, the outsider philosopher of alienation, solitude, and stoical toughness, the liberal humanist Nietzsche of the American scholar Walter Kaufmann, for whom every saber-rattling image is just a metaphor for daring thought. And so forth. Almost a Nietzsche for every reader, which he might have said was his point ("There are no facts, only interpretations") or one of his points.

Curtis Cate's Nietzsche is a cultural conservative, much like Curtis Cate. Cate, who has also written biographies of André Malraux and George Sand, says that his 600-page biography "has not been written for 'professionals,' for university professors or teachers of philosophy." It's aimed at the general public, including people who know nothing of the philosopher but the name and blasphemous reputation, and is thus intended to clear away "stereotypic prejudices" that cling to him, "like the naive notion that he was viscerally antireligious." In this, it succeeds.

Cate's Nietzsche isn't primarily the intrepid, subtle explorer of precipitous interior landscapes who emerges so brilliantly from Lesley Chamberlain's *Nietzsche in Turin* (1996) and Rüdiger Safranski's *Nietzsche: A Philosophical Biography* (2002). He's a social critic, a farsighted foe of what Cate calls our "shamelessly transparent culture," the ethos of self-exposure and sensationalism that has become the "effective day-to-day religion" of the West. Nietzsche, who favored an austere, distance-imposing ideal of art, a heroic and severe sort of individualism, and an aristocratic reserve, would certainly not feel much at home in 21st-century America; but Cate overdoes it, regularly interrupting his account of the philosopher's life and ideas to deploy him against rap music, Benjamin Spock's childrearing advice, the reformed liturgy in the Roman Catholic church, pornography, the "transparently clad model-girls—the new idols of our sensation-seeking age" who debase high fashion, and the "sentimental frenzy" on TV every evening, all this being the kind of thing, says Cate, that would have left the philosopher "speechless with disgust."

Well, maybe not speechless.

What's amazing is how prolific Nietzsche was, given that he went mad at 44 and spent much of his time in a nomadic search for Mediterranean and Alpine microclimates that would alleviate the chronic blinding headaches and fits of nervous prostration that kept him in bed for days at a time. Cate's is the most thorough, day-to-day, Richard-Ellmannesque biography of Nietzsche in English, written with a novelist's eye for setting and significant detail; but much of it reads like a case history. He was a human barometer: Cloudy days floored him, thunderstorms left him a wreck, but bright sunlight hurt his eyes and heat oppressed him. And as he criss-crossed Italy and Switzerland from rented room to rented room, the ordeals by train, with their inevitable missed connections and lost luggage, only made matters worse.

Yet, when halfway healthy, he was up at dawn, writing relentlessly, hiking for hours up mountains and around glaciers in the Swiss Alps while jotting down thoughts in a notebook, or taking long, intricate walks through the streets of Genoa or Turin, sustaining himself on a frugal diet of café lunches, tea, biscuits, peasant bread, and fruit. He produced over a dozen iconoclastic and disorienting books in 16 years. Aside from the final descent into raving madness that began when he tearfully wrapped his arms around a horse being beaten in a Turin street in January 1889, his life was undramatic.

But there were three noteworthy episodes. It was probably while serving as a medical orderly during the Franco-Prussian War that he contracted syphilis in a brothel, which most biographers, including Cate, assume brought on the mental collapse two decades later. It was also at this time that he acquired an instinctive hatred of German nationalism. After witnessing the bitter resentment that forcible incorporation into the new Prussian-led German Reich provoked among even German-speaking peasants in Alsace, and hearing the triumphalist note being sounded not only in the newspapers but also in academic quarters, he began his relentless attacks on the new Bismarckian obsession with power politics, writing that "a great victory is a great danger," the danger being that German culture would be wrecked by German militarism, a prophecy confirmed more than once.

A close friendship with Richard and Cosima Wagner while he was a young professor of classical philology at Basel ended when he felt the composer was using him as a kind of philosophical factotum and, after their move from Lucerne to Bayreuth, the Wagners immersed themselves in a nationalistic and anti-Semitic milieu he couldn't stand. The break was emotionally wrenching, but set him on an independent philosophical course. Then there was his brief flirtation with a passionately intellectual young German-Russian named Lou Salomé. She wanted to attach herself to a man of genius, while he saw in the headstrong 21-year-old a feminine alter ego. There were long walks and talks in the mountains and plans for a platonic *ménage à trois* with their mutual philosophical friend Paul Rée in Vienna or Paris. But there were also triangular misunderstandings and jealous rages, with Nietzsche finally backing off just as he was starting to look a bit like Emil Jannings's Professor Rath chasing Marlene Dietrich's Lola Lola in *The Blue Angel*. There may have been a kiss between them—

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Bettmann / Corbis

Friedrich Nietzsche and his mother

Lou, who later took up with Rainer Maria Rilke, was coy about it in her memoirs—but no more. It was a bedroom farce without the bedroom.

The decisive event in Nietzsche's intellectual life had come in a used bookstore when he was 21. He picked up a volume of Schopenhauer by chance and was immediately transfixed by the dark, sardonic vision of the world as a phantasm driven by an irrational, malign cosmic Will, with the only escape in aesthetic experience, where the will is momentarily quieted in detached contemplation. Already devout about art and especially music ("Without music, life would be a mistake"), he was smitten with both the idea of redemption through art and the notion of a mysterious, pulsing force coursing through the world. But he eventually turned Schopenhauer upside down, transforming the futile willing that art allows us to escape into a Dionysian creative will, the "will to power," that art and artist consummate.

For Nietzsche, the "death of God" had foreclosed the possibility of transcendence through a spiritual world, traditionally attained by renouncing this one and, with it, the life of the body and the senses. Art, which engages the body and senses but also involves a creative self-overcoming, a constant reaching into the unknown, becomes a way of giving life in this world a sense of transcendence. But the secular, progressive, democratic vision of social equality and technological comfort offered by socialists or welfare-state liberals would, by removing risks, challenges, and disciplines from life, remove with them the conditions for creative genius and the highest art, maybe even a higher humanity (the suspicious character known as the *Übermensch*).

This accounts for the bombastic ranting of Nietzsche's "atrocious anti-democratism," as he himself put it, and the ranting accounts of his fascist fans, though after his breakdown the distortions and forgeries of his sister Elisabeth—who embraced (literally, she married one) the nationalists and anti-Semites he despised—in effect substituted the rant for the philosophy. Nietzsche proposed that all anti-Semites be expelled from Germany, denounced the proto-Nazi racial theorists of his day, and regarded the Jews as an essential component of the new aristocracy of "good Europeans" who, he hoped, would rescue European civilization from the "decadence" exemplified by both nationalism and socialism as well as artistic decline. Cate, like Walter Kaufmann, has no trouble separating him from his most toxic disciples. But his legacy is still ambiguous, and the shorter book by his German philosophical biographer Safranski does a more scrupulous job of sorting it out.

Nietzsche's philosophy was the aestheticization of life. He thought life is necessarily shaped the way artists shape their materials, and once we admit this—and admit that it's inherent in and essential to life itself—tonic, life-enhancing aesthetic judgments can be substituted for moral judgments everywhere, and a new, epic sense of politics driven by visionary artist-aristocrats will follow. Add to this Nietzsche's mile-wide sadistic streak, his reiterated affinity (which appears only in his later work) for cruel barbarians, conquerors, strongmen, Cesare Borgia, and Napoleon, and you get a recipe for disaster. Cate deplores the "dangerous" passages in Nietzsche's work, though he doesn't quote some of the most dangerous, such as this one from *Ecce Homo*: "That new party of life, which takes charge of the greatest of all tasks, namely the improvement of humanity, including the relentless destruction of all that was degenerate and parasitical, will make possible again that excess of life on earth from which the Dionysian condition must once more grow." While correctly arguing that Nietz-

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sche's ideal was not racist or nationalist or militarist, and that he couldn't possibly have been a fascist, Cate fails to see the way in which his work nevertheless helped create the political and cultural atmosphere in which fascism and National Socialism emerged and won intellectual converts.

The increasing vehemence of Nietzsche's later work was a measure of his desperation. The son of a Lutheran clergyman retained, as Cate makes clear, a devoutly religious temperament, and he wanted to be the prophet of a new revelation. And so he thought that *Thus Spake Zarathustra*, with its pseudo-biblical language and gnomic, parable-dispensing, wandering sage-hero, would eclipse the Gospels, and that his unrealized crowning work, *The Will to Power: Attempt at a Revaluation of all Values*, would be "the greatest philosophical event of all time, with which the history of mankind breaks into two halves."

His dithyrambic revelations ring hollow now. The religion of Life looks like a period piece. If Isadora Duncan didn't choreograph a dance around *Zarathustra*, she should have. But there's still a lot left. There's the mordant aphorist, the shrewd psychologist, not just of individuals but of cultures, eras, cities, and works of art. There is the virtuoso of searching introspection, the skeptical saboteur of all dogmas. Cate doesn't do justice to all of this, and he doesn't contain any biographical surprises, either. Cate also has to admit that his assigned role for the philosopher as conservative scourge of our self-expressive, self-indulgent popular culture doesn't always fit, since, if he sounds that way in one passage, two pages later he's the patron saint of all fluid, rootless, experimental contemporary selves, the shifting sands on which our established cultural church is built.

This is the writer who advised his readers to "live dangerously [and] become what you are." Curtis Cate makes Nietzsche's troubled life and troubling thought accessible, and lets him be what he wanted to be, impossible to ignore. ◆

A Quiet American

The life and death of Cpl. Jason Dunham.

BY DIANE SCHARPER

Sergeant Hendricks had a bad feeling about the convoy. Not because of the operation itself—it was a classic good-will hearts-and-minds mission—but because so many Iraais knew the Marines were coming, and this might set them up for an ambush. Finding himself edgy the night before, he wrote in his journal, "Well, if this is my last entry because we get hit—it's been fun."

The Gift of Valor
A War Story
by Michael M. Phillips
Broadway, 192 pp., $19.95

By 9:38 the next morning, April 14, 2004, it was evident that Hendricks had been right. Iraqi insurgents attacked the convoy and critically wounded several Marines.

Corporal Jason Dunham and his team from Kilo Company, Third Battalion, Seventh Marine Regiment, were sent into the kill zone in order to disarm the insurgents. (From the bloody carnage there—Marines dead and wounded, one with a nine-inch-long splinter of wood jutting out of his head, another with small chunks of muscle hanging from his thighs—one quickly grasps the accuracy of the term "kill zone.")

At a little after noon, Corporal Dunham was searching a line of Iraqi vehicles parked along the dirt alley just inside the gateway of Husaybah. As Dunham approached a run-down white Toyota Land Cruiser, the driver lunged out of the car and grabbed him by the throat. The two men tumbled to the ground, and two other Marines rushed to help. A few yards away a radio operator heard Dunham yell. Then an explosion shattered Dunham's helmet and left all three Marines wounded, Dunham mortally.

Did the force of the explosion wound Dunham, sending his shattered helmet into the air? Or did Dunham put his helmet over a grenade to protect the other men in his squad, primarily Private Kelly Miller and Lance Corporal Bill Hampton, the two Marines who had rushed to help him subdue the insurgent?

Wall Street Journal reporter Michael M. Phillips wanted to find out what happened. The result was a front-page article, later expanded to become this gripping minute-by-minute account of the final days of Dunham's life.

Well researched and artfully crafted, *The Gift of Valor* is based on interviews with about a hundred Marines, sailors, soldiers, airmen, and civilians, as well as letters, e mails, essays, personal journals, medical records, and documents related to Dunham's nomination for the Congressional Medal of Honor.

The Medal of Honor is the nation's highest award for military valor, saved for those whose actions are considered so self-sacrificing, so risky, so far beyond what is required, that no one would be criticized for choosing to do something else. Applied to Dunham, the criteria boil down to this: If Dunham had kept his helmet on his head, he would have mitigated the grenade's effect on himself, and he might be alive today. If he removed his helmet to cover the device, as some believe he did, he would have helped protect his men, but would have opened himself to grave injury. He would have made the ultimate sacrifice, and would there-

Diane Scharper is the author, most recently, of Songs of Myself.

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by be eligible to receive a posthumous Medal of Honor.

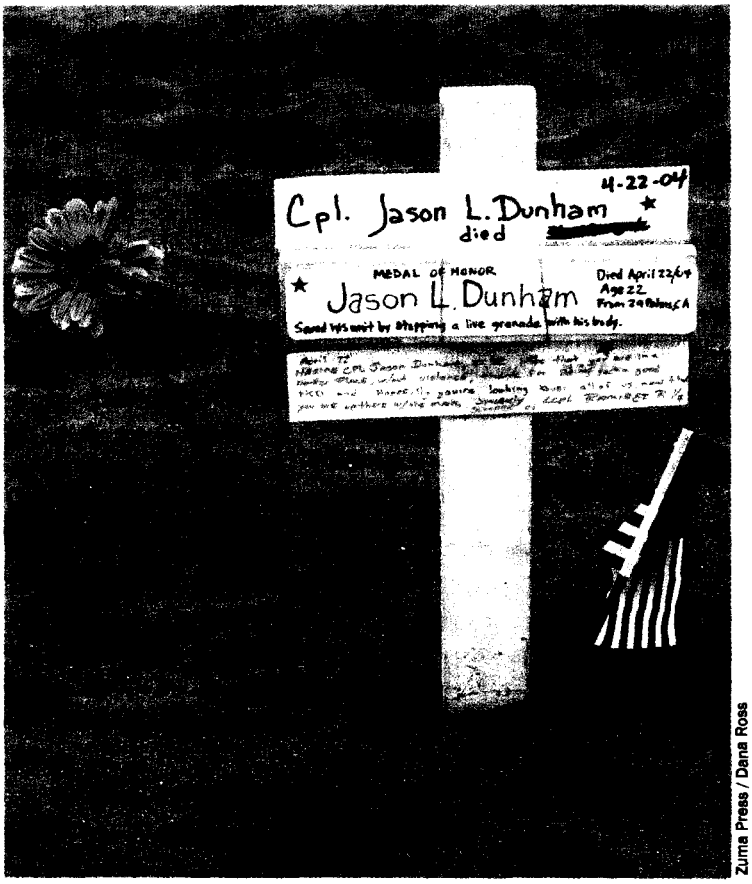
Although presented objectively, the facts make a strong case that Dunham spotted the grenade, warned his men to move out of the way, then placed his helmet and body on top of the grenade to shield his squad mates:

> Lance Corporal Hampton caught a fleeting glimpse of Dunham's helmet on the ground beside the Iraqi with Dunham on his stomach, his arms stretched out in front of him and wrapped around the sides of his helmet. Then came a flash of light, and Hampton's vision was blurred as metal fragments hit him in the face, both arms, and the leg until he staggered against the cinderblock wall with blood gushing from an inch-wide hole in his forearm.

Private Miller saw the explosion and its aftermath in still frames. First, he saw Dunham tipping over with his helmet gone. Then Miller saw the sky as he fell backward when a piece of hot metal passed through his upper lip, coming to rest inside the back of his cheek and blowing out his eardrum. A radio operator about 36 feet away, Lance Corporal Jason Sanders, saw nothing but heard Dunham scream out a warning to "watch [the Iraqi's] hand," causing Sanders to assume that Dunham had seen a grenade in the man's hand and warned his men about it.

Afterward, several Marines found a Mills Bomb grenade in the Toyota that had been used in the ambush. They also found what they believed to have been a pin belonging to a grenade that might have been used by the insurgent.

Thinking about the incident, Staff Sergeant John Ferguson remembered an earlier conversation with Dunham, and his stubborn conviction that a helmet would blunt the blast of a grenade, while other Marines insisted that you would need more than just a helmet. Ferguson had no doubt that Dunham had put his helmet on the grenade.



Zuma Press / Dana Ross

Memorial to Corporal Dunham, Los Angeles

Besides, Dunham was a conscientious leader. He had promised several times that he would bring all of his men back home from Iraq, and had even extended his tour of duty for five months so he could stay with his squad through their entire combat tour. When push came to shove, Dunham would do anything to protect his men.

But the one person who would have known something definitive was dead. Corporal Jason Dunham, a 22-year-old squad leader, never regained consciousness after the explosion, and died a little more than a week later on April 22. Shortly thereafter, Phillips, who has done four tours in Iraq with the Third Battalion, Seventh Marines, began researching Dunham's story.

Writing in a manner reminiscent of John Hersey's *Hiroshima*, Phillips begins the story with its climax; then detail by detail, he reconstructs the people, places, and events that led up to the climax. The method brings the story home so powerfully that when one of the Marines, an Arab American, is wounded but still calls out, "Semper Fi," I had chills.

Phillips develops the story through vignettes that both comment on each other and advance the story, often taking it in a zigzag pattern as opposed to a linear one. This works only because the book is so clearly written.

Arranged to intensify the emotional aspects of the story, the vignettes resemble tiles in a mosaic, each emphasizing and creating the larger picture. Phillips doesn't just describe the attack on Dunham; he describes the attacks on everyone wounded during the ambush. One hears about each of them: from Marines, doctors, family, and friends, all giving context to Dunham's injury and making it the climax of the story.

First, Phillips focuses in on those involved in the action at ground zero. Then he moves out to cover Dunham's military training at both Parris Island and Twentynine Palms; his injury at Husaybah; his hospitalizations in Iraq, Germany, and Washington, where he died; and the award citation recommending Dunham for the Medal of Honor. Completing the portrayal of Dunham, Phillips describes his early life in his hometown of Scio, New York. With a poet's eye, Phillips gathers the just-right details, as when he notes the misspelling on the sign advertising Scio's only bar, Mahogany

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Ridge, and the bait machine on the porch of Scio's general store, which "for $1.25, spat out mealworms, salted minnows, or live nightcrawlers."

A loving son, a caring first-born who looked out for his three younger siblings, a faithful friend, a hard worker, a talented baseball player, but a lackluster student, Dunham liked the outdoors and the challenge of physical activity. He joined the Marines in the summer of 1999, the summer before his senior year in high school, when no one had an inkling that the United States would soon go to war, let alone experience the trauma of 9/11.

Growing up in a working-class family, Dunham lived with his stepfather, a farmer and truck driver, and his stepmother, a schoolteacher. Both were concerned and loving parents, something his birth mother was not. Dunham planned to go to college after he was discharged from the Marines and, eventually, to marry. With his contagious smile, athletic appearance, and youthful good looks, Dunham had his pick of several young women, and felt that he had everything to live for.

Writing in spare, objective prose, Phillips drives the story forward with separate incidents, each foreshadowing other incidents, increasing tension, so that one feels tragedy approaching as if it were a physical presence. We know that the hero will die, because that's the way tragedies work; but we hope that, in this case, the tragedy won't work, that all will end well. But it does not.

Ultimately, this is a story about the human effects of war. Phillips makes no judgments about the rightness of the war in Iraq, no judgments about the media coverage of that war, and no judgments as to whether Dunham should receive the Medal of Honor. Instead, he marshals the evidence objectively, letting readers decide for themselves. *The Gift of Valor* has a strong moral sense, but doesn't preach. It merely shows what happened—not how or why—to a typical Marine, and in doing that, it fires the imagination in a way few news stories can. ♦

Without a Prayer

Just how 'mainstream' are mainstream churches?

BY MARK D. TOOLEY

Americans are giving up on liberal-led mainline Protestant denominations! And they have been doing it for 40 years! This is hardly news. But in *Exodus: Why Americans Are Fleeing Liberal Churches for Conservative Christianity*, Dave Shiflett fleshes out the trend by examining the spiritual journeys of several pilgrims.

Exodus
Why Americans Are Fleeing Liberal Churches for Conservative Christianity
by Dave Shiflett
Sentinel HC, 224 pp., $23.95

Himself a somewhat equivocal Presbyterian, Shiflett anecdotally relates how liberal Protestantism, once America's dominant religious force, is exhausted, spiritually, politically, and demographically. The pilgrims he traces—WEEKLY STANDARD writer and senior editor Andrew Ferguson, writer Frederica Matthewes-Green, conservative publisher Al Regnery, Southern Baptist leaders Albert Mohler and Richard Land, former Nixon aide Charles Colson, and an evangelical preacher who was present at the Columbine shootings, respectively found peace in Roman Catholicism, Eastern Orthodoxy, Baptist conservativism, and evangelicalism.

All the pilgrims, especially former Episcopalians Ferguson and Matthewes-Green, insist that mainline Protestantism is dead. Still reeling from their denomination's schism since the election of the first openly homosexual bishop two years ago, the Episcopalians are understandably adamant about this.

"There may now be twice as many lesbians in the United States as Episcopalians," Shiflett cracks, mocking what used to be America's most refined and upwardly mobile of religions. Once known as the Republican party at prayer, the Episcopal Church has devolved into a hodgepodge of vegans, sandal-wearers, and Greenpeaceniks. Or at least that's the stereotype.

Those crazy Episcopalians, along with the United Methodist, Presbyterian Church (U.S.A), Evangelical Lutheran, United Church of Christ, American Baptist, and Christian Church (Disciples of Christ) denominations once comprised the "seven sisters" of America's religious mainline. All now are increasingly marginal, Shiflett insists, with good reason. Fewer than 15 percent of American church members now belong to these bodies.

Meanwhile, Baptists and evangelicals and Roman Catholics and Eastern Orthodox, all of whom were once considered to be on the sideline of American society, are now bustling along at a brisk pace. According to one of Shiflett's experts, these successful churches do *not* strive to be reasonable, tolerant, ecumenical, or relevant. Instead, they steadfastly adhere to their own traditions and peculiar rituals, and are intentionally counter-cultural.

Frederica Matthewes-Green proudly showed Shiflett the slice of a saint's foot bone that she maintains as a relic in her unashamedly Orthodox home. Andrew Ferguson, who realized he was the only believer in God as he was studying for the ministry at a liberal seminary in Berkeley, now finds peace in "submission" to the Roman Catholic Church.

Richard Land, head of the Southern

Mark D. Tooley directs the United Methodist project at the Institute on Religion and Democracy.

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Baptist church's agency for social witness, rejoices in the biblical inerrancy championed by the conservatives who took the helm of his denomination nearly 25 years ago. Albert Mohler, head of the Southern Baptist seminary in Louisville, is understandably pleased that his church did not follow mainline patterns, and now counts 15,000 students in its staunchly conservative seminaries.

Bill Oudemolen, a megachurch evangelical pastor in Littleton, Colorado, was on site when two teenagers murdered their classmates at Columbine High School. His funeral sermon for one of the victims was broadcast internationally, and unapologetically faulted Satan for the murderous spree, while inviting grieving listeners to turn to Jesus. Fellow evangelical Chuck Colson turned his Watergate infamy into a vastly successful prison ministry that made him one of America's most prominent religious voices.

"People want the real thing," Colson explained about liberal Protestantism and its vapid emphasis on good works instead of supernatural truth. "They are not interested in a pale substitute, because it can never satisfy. It just doesn't answer the questions people have."

In contrast to the sunny optimism about America that mainline Protestants often exuded throughout the decades of their dominance, the conservative religious converts that Shiflett profiles, though joyful in their own faith, are often pessimists about the country.

"If the atheists conquer, they will marginalize the Christians to the extent of imprisonment and death," warns Father John McCloskey, who has led a host of prominent converts such as Judge Robert Bork and columnist Robert Novak into Roman Catholicism.

All of Shiflett's converts celebrate their faith in what much of mainline Protestantism abandoned: belief in divine revelation, miracles, an afterlife of Heaven or Hell, and unchanging notions of right and wrong. These convictions, so profoundly subversive to the spirit of the age, transform lives. Meanwhile, stodgy old mainline sermons about social justice are preached to mostly empty pews and a dwindling number of gray heads.

Corbis / Ed Kashi

At the Greater New York Billy Graham Crusade, 2005

In a way, it is a triumph of American consumerism. The mainline churches, whose adherents largely founded America and led it for much of 300 years, became boring and irrelevant. Rather than turn their backs on religion, as has much of Europe and Canada, Americans creatively found solace in new megachurches or in robust versions of ancient churches once considered exotic.

Perhaps missing from Shiflett's overview is a great sense of sadness about the demise of the mainline, which almost singlehandedly created America's notions of civic righteousness and providential destiny. Shiflett also may be overly pessimistic. Liberal theology prevailed in the mainline churches a century ago. But surveys show that millions of mainliners still adhere to traditional Christian beliefs. And unlike their often leftist clerics, these mainliners still mostly vote Republican. Despite their demographic decline, mainliners are still disproportionately represented in Congress, in local political offices, in corporate boardrooms, and in other places of influence. Three centuries of cultural hegemony ensure that even a declining mainline will not die anytime soon.

Meanwhile, there are some limited but hopeful signs of mainline revival. The United Methodist Church, with 8 million members in the United States and the largest of the mainliners, has decidedly turned in a more conservative direction on some bellwether issues such as homosexuality. Lutherans and Presbyterians, with still numerous conservative local synods and presbyteries, have also yet to follow the Episcopalians over the cliff.

Shiflett's thesis, that liberal religion stifles churches, can be proven not just by comparing mainliners to nonmainliners, but also by looking within the mainline. There are now more United Methodists in Georgia alone than in California, Washington, Oregon, Arizona, Colorado, and Nevada combined. Georgia Methodism is conservative and growing; West Coast Methodism is liberal and collapsing. And as Shiflett notes, global Christianity, like American Christianity, is increasingly dominated by orthodox, conservative beliefs.

But instead of boding ill for mainliners, this may actually save them. Conservative Methodists and Anglicans in Africa have become important allies for conservatives left in the American churches. The global south progeny of mainline missionaries may yet rescue at least parts of their parent churches.

Shiflett's work is helpful. Neither liberalism nor secularism is necessarily on the rise. In American religion, as in global religion, it is conservative believers who are growing in numbers and in cultural influence. Shiflett concludes by telling of former Pol Pot followers in Cambodia who are converting to evangelicalism. Communism is dead, but the old-time religion, though repackaged, is doing just fine. ♦

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Founding Mother

The woman Betty Friedan wanted to burn at the stake. BY KARLYN BOWMAN

By the time she turned 40, in the tumultuous political year of 1964, Phyllis Schlafly had run for Congress, become a polished political speaker and built an impressive resume in Illinois politics, written two best-sellers, been elected unanimously as vice president of the National Federation of Republican Women, and had five (of six) children. Her first book, *A Choice Not an Echo*, a 128-page self-published volume that attacked the liberal eastern wing of the Republican party, had sales of more than 3.5 million copies. Her second book, *The Gravediggers*, a wake-up call about Soviet intentions written with Rear Admiral Chester Ward, sold 2 million.

Phyllis Schlafly and the Rise of Grassroots Conservatism
A Woman's Crusade
by Donald T. Critchlow
Princeton, 438 pp., $29.95

What is striking about both of these books is not their impressive sales, but the fact that neither of them, nor any of her other political work until that time, is associated with the cause for which most Americans know her—what historian and biographer Donald Critchlow calls "anti-feminism."

Critchlow has written a fine, and long overdue, biography of this activist from Alton, Ill. He has also chronicled the rise of the modern American conservative movement after the Goldwater debacle. His is a bottom-up history of grassroots political organizing, and the role women played in it, and a top-down tale of the woman who led it.

Schlafly, like her antagonist Betty Friedan, was born in Illinois in the 1920s. Both women were raised by strong mothers who encouraged their talented daughters. Schlafly worked the night shift to pay her way through Washington University, and then went to graduate school at Radcliffe. (Years later she obtained a law degree.) Her early academic pursuits were followed by a stint at the American Enterprise Association (now Institute), where she began her real education as a political conservative.

The young Schlafly's passions were a distrust of centralized government and political elites. Her deep Roman Catholic faith also inspired her political activity, and particularly her opposition to communism.

In 1952, at 27, she made her first of two runs for Congress against five-term incumbent Melvin Price. She was one of 29 women to run that year. In her campaign she sounded another theme that became a political touchstone for her, urging women to become active in politics because the "country would benefit if women exercised their voting rights to restore morality to our federal government."

Schlafly was becoming well versed in many political issues, though she preferred to concentrate on defense and foreign policy. When the anti-communist fervor started to wane in the 1950s and early '60s, she was an important leader in the conservative movement that began to coalesce around social issues. Those issues helped to revive the Republican right after Barry Goldwater's defeat and Richard Nixon's disgrace. The campaign against the Equal Rights Amendment was an early and consequential victory. Paradoxically, it made Schlafly, the anti-feminist, one of the most powerful women in politics.

In 1971-72, the ERA passed the House by 354-23, and the Senate by 84-8. Thirty states ratified it within a year of its passage. For most people, adoption seemed a foregone conclusion. Critchlow tells us that Schlafly had "not taken much interest in feminism" up to this point, but with her usual drive and intelligence, she entered the fray.

In 1972, in her newsletter, she laid down the principles that would guide anti-ERA forces for the next decade. She and her supporters saw it as a threat to the special legal protections that women and mothers enjoyed in society, and to traditional values. She supported legislation that would give women better employment opportunities and equal pay for equal work, and she enraged her debating partners by telling many of her audiences that her husband Fred allowed her to speak at these events.

The nastiness of that debate has much of the flavor of politics today. "I'd like to burn you at the stake," said Betty Friedan in one encounter. But what went up in flames was the Equal Rights Amendment, a story Crithlow tells in fascinating detail. Schlafly's role in bringing millions of voters concerned about the erosion of traditional values to Ronald Reagan cannot be underestimated.

Phyllis Schlafly's story, and most news about women, is usually told from the feminists' perspective in part because many writers and journalists feel more sympathetic to that view. That is changing somewhat with the work of a new generation of women, such as my estimable AEI colleague Christina Hoff Sommers and organizations such as the Independent Women's Forum and the Women's Freedom Network. These women and organizations engage in top-down political combat that is different in kind and tone from Schlafly's bottom-up grassroots approach. Critchlow has left their story for another day, but he has provided a truly compelling account of the woman who began the battle. ♦

Karlyn Bowman is a resident fellow at the American Enterprise Institute.

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Vanity Fare

Putting Laurence Sterne's comic masterpiece on film.

BY JOHN PODHORETZ

Picture House / WENN

Steve Coogan, Rob Brydon

It is fitting that a picaresque 18th-century masterpiece as defiantly singular as Laurence Sterne's *Tristram Shandy* should serve as the wellspring of a singular 21st century cinematic wonder called *Tristram Shandy: A Cock and Bull Story*.

Sterne's novel is an endless series of variations on a single theme: Human existence is an incoherent tumult, and no man's life can be accurately or honestly converted into a clean, linear narrative. Sterne let his febrile imagination loose on the page in an endlessly amusing, wildly confusing work of free association—a work that stands as a portrait of the capacious sensibility that created it.

Tristram Shandy: A Cock and Bull Story
Directed by Michael Winterbottom

John Podhoretz, a columnist for the New York Post, *is* THE WEEKLY STANDARD'S *movie critic.*

Michael Winterbottom's joyous new movie is an amazingly successful effort to capture the sensibility of Sterne's endless jape in a film only 94 minutes long. Winterbottom translates a series of scenes from the novel to film—scenes in which Tristram attempts to tell the story of his own birth, but keeps getting waylaid by extraneous details about his father's life, his parents' marriage, and his Uncle Toby's obsessive reenactment of the battle in which his manhood was compromised. In the book, Tristram is so distracted by his digressions that he can't even get himself born until Volume Four. In the movie, the adult Tristram appears only as a narrator struggling to advance his own life story past his journey through the birth canal.

Winterbottom is the most casually and comfortably literate of contemporary filmmakers, with two impressive (and depressing) Thomas Hardy adaptations to his name: 1996's *Jude* and 2000's *The Claim*, which cleverly transposes *The Mayor of Casterbridge* to an American mining town during the Gold Rush. As we watch his film, we discover that Winterbottom and his writing colleague Frank Cottrell Boyce (whose joint screenplay is credited to Michael Hardy) wisely have no intention of adapting *Tristram Shandy* to the screen. Rather, they decided to try and capture the hilariously digressive experience of reading the book. To achieve this end, they have come up with a terrific trick: Most of the movie is actually about the making of a *Tristram Shandy* movie, starring and narrated by the amazing British TV comedian Steve Coogan.

Just as Tristram wants to be the hero of his own tale, but is continually frustrated because he can never quite get to the center and stay there, so it is with Steve Coogan. As *A Cock and Bull Story* progresses, Coogan begins to fear, and with good reason, that he is not actually the star of the movie. His vanity is stung by the growing importance of the novel's Uncle Toby character, especially since the part is played by his friend and nemesis, fellow comedian Rob Brydon. Coogan does everything he can to cut Brydon down to size, including literally demanding that Brydon's shoes be redesigned so that Coogan can tower over him.

But nothing Coogan does can prevent the movie-within-a-movie from being taken over by Rob Brydon—who isn't even trying to take it over. When a battle sequence featuring Uncle Toby unexpectedly becomes the movie's centerpiece, Coogan contrives to get a love story from the book inserted into the film. The problem is that Coogan hasn't actually bothered to read *Tristram Shandy*—which is a notoriously difficult book, after all—and so doesn't realize that the love story doesn't involve Tristram at all but rather Brydon's character, Uncle Toby. So when the bombshell American actress Gillian Anderson (of *The X Files*) gets cast as the romantic interest,

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it's Brydon who gets the screen time and gets to live out his life's fantasy of getting it on with Agent Scully.

Sterne gave the world a peerless portrait of how a man's mind works, how it runs a million miles a minute and enjoys endless regressions and digressions. In *A Cock and Bull Story*, it's Winterbottom's Tristram, Steve Coogan, who is running a million miles a minute, unable to focus on any single thing. One minute Coogan is meeting with the producers, and in the next he's trying on costumes before he has to run off and flatter a journalist whose paper wants to publish an embarrassing article about him at a strip club. Meanwhile, his girlfriend and newborn baby are upstairs in his suite while he flirts with a cute assistant who nearly bores him and everyone else to death with long speeches about the German director Rainer Werner Fassbinder.

No performer since Jack Benny has been this funny playing himself as an overstuffed popinjay. And yet Coogan does an indelible job of capturing the pathos at the center of Sterne's comic vision. After all, who hasn't, at some point, shared Coogan's (and Tristram's) sense that we are not the heroes of our own lives but rather merely supporting players in somebody else's drama—a drama that God, for a reason we cannot fathom, finds more interesting? ♦

Pointes of View

From the classics to the avant-garde in modern dance.

BY JUDITH GELERNTER

A legacy part in a computer is outmoded and wants to be replaced because it prevents the system from running at peak efficiency. A legacy characteristic in the arts is almost the opposite: It has resisted replacement, and stands to raise the artwork above the tides of taste to the timelessness of the classic. Recognizing legacy strains serves to deepen understanding of the arts, and reading *Legacies of Twentieth-Century Dance* could help. It reprints some 20 years of research essays and book and performance reviews written by one of the country's foremost dance historians.

Legacies of Twentieth-Century Dance
by Lynn Garafola
Wesleyan, 445 pp., $27.95

Lynn Garafola's dissertation on Diaghilev's Ballets Russes was published in 1989, and the same year won the De la Torre Bueno Prize, awarded annually for a distinguished original work of dance scholarship. Her career has included lecturing and curating exhibitions. She co-curated America's Irreplaceable Dance Treasures, the exhibition that was up last summer at the Vincent Astor Gallery of the New York Public Library for the Performing Arts. She is an editor of *Dance Magazine* and professor in the department of dance at Barnard College/Columbia University.

Legacies demonstrates strong writing and scholarship. Savor vivid metaphors, such as "pointes of iron" to describe the strong toes of virtuosic Balanchine ballerinas, "mechanical centipede" to describe a group of dancers in a stylized rond de jambe from a low bend, or even "human padding" to describe too many dancers on stage at once. Garafola's command of the field is demonstrated not only in main arguments but even in background asides. An essay on the Kirov, for example, includes an explanation of the *ballet blanc* more useful than the entry on the same topic found in the *Oxford Dictionary of Dance*. The text's citation of primary as well as secondary sources in endnotes following research essays provides scholarly trappings only recently assumed in the young field of dance history.

Legacies divides thematically into The Ballet Russes and Beyond (Part 1), Reconfiguring the Sexes (Part 2), Dance in New York (Part 3), and Staging the Past (Part 4). Given that component essays were taken from other publications, it is not surprising that the connection of each essay with its parent part, and with the others, is loose. More surprising is that the illustrations also are largely independent of the essays. The preface calls the illustrations a scrapbook, some of which relate to essays and others of which were selected just because the author likes them. The loose association among components gives the reader freedom to flip through photos and essays of interest without missing key story threads.

Why not let this review suggest those essays most arresting from the standpoint of dance history? Start with "The Diaries of Marius Petipa," published as an introduction to Garafola's translation of the diaries. One of this choreographer's achievements is that works such as *Swan Lake*, *Sleeping Beauty*, and *Giselle* remain in repertory today. The essay remarks on what can be found in the diaries as to the dating and evolution of certain Petipa ballets, the backstage politics that attended their production, and the audience reaction.

The extravagance of ballet in the 19th century was curtailed in the next, and some ideas behind the new look are discussed in "Design and the Idea of the Modern in Early Twentieth-Century Ballet." Many works performed by Diaghilev's Ballets Russes retained the classical movement vocabulary, but broke with

Judith Gelernter, who teaches in the library and information science program at Rutgers, writes frequently about dance.

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musical, choreographic, and scenic conventions. Avant-garde choreographers in the decades that followed moved further from plot and toward pure abstraction.

Aesthetics is affected by *danseur* and *danseuse* roles, body types, costumes, partnering, and technique, as well as ideas, and these are the subject of Part 2, Reconfiguring the Sexes. In "Choreography by Nijinska," Garafola remarks on how Nijinska's stylized classical technique made the traditional seem unfamiliar. Part 4, on Staging the Past, considers the related question of how aesthetics weather over time. Here we find a description of Nijinska's revived *Le Train Bleu*, which is in the Oakland Ballet's current repertory. The work was reconstructed from the memories of four of the ballet's principal dancers, Diaghilev's notes in the score, the staging directions of librettist Jean Cocteau, and numerous photographs.

The essay raises a question often repeated by performance scholars: What makes a performance authentic? Whereas today authenticity is equated with photocopy sameness, Garafola explains, artists of the stature of Petipa and Balanchine freely cut, added, and altered the choreography. The identity of an early ballet derived less from the choreography than from the libretto, and later, from its musical score.

Some American contributions toward the evolution of the movement art are considered in Part 3. "Dance in the City: Toward an American Dance" discusses what defined American dance in New York City from the 1940s to the '60s. At the beginning of this period, dance was American on account of its music by American composers, and plots concerning American locales and themes. Supposedly, the tie between selected mid century works by Martha Graham and George Balanchine and this country was the vogue for psychology, and choreographers melded psychological themes into masterworks. This interpretation is hard to accept, however, given each of these artists' remarks about their own compositions. Balanchine very likely would have agreed with Martha Graham when she said, "My dancing is just dancing. It is not an attempt to interpret life."

The essay is persuasive in linking the 1960s' freedom of choreographic method, which gave dancers a chance to collaborate with the choreographer in celebration of equality. Freedom fed aesthetics in the next decade, as well, in that specialized stages and training were rejected, and the definition of dance widened to incorporate pedestrian spaces and movements.

A particular contribution of New York City has been its dance companies. Read "American Ballet Theater 2001" and "Dance for a City: Fifty Years of the New York City Ballet" and compare their directors and choice of repertory to understand each company's unique contribution. We are told that the New York City Ballet "raised technique to dizzying heights of virtuosity and defined an American classical style. It has seeded innumerable companies, supplying them not only with distinguished repertory but also with gifted choreographers, and artistic directors. In all but name, only NYCB is the country's national showcase for ballet."

Bettmann / Corbis

Serge Diaghilev, 1916

In all her analysis of dancers and choreographers, Garafola recognizes that the art is sustained by a lay audience. She considers herself a populist, and this comes across to advantage in her historical method. Reception history is often difficult to write, if it is possible to write at all, because of the necessity of combing literature horizontally for reactions that might never have been recorded in the first place. Yet reception is valuable for the arts, where tastes change. We sharpen our vision by peering through the lens of historical context. Garafola seeks out this context, and might comment on whether a concert hall was full, for example, or who was in the audience, or what the reaction was to a particular performance.

Reading *Legacies* could not help but increase your understanding and hence your enjoyment of the movement art. In return, your own role in shaping this art potentially is much greater. Dance is a business, especially in this time of restricted government funding, and it must respond to audiences to stay solvent. Consider your attendance dollars to be your unpublished criticism. Your reaction to a particular performance whether by applause or comments urging friends to attend might affect indirectly choreographers' choices as to performance length, style, and repertory. So when you do attend, you might in some way influence the course of dance history and shape the legacy yourself. ♦

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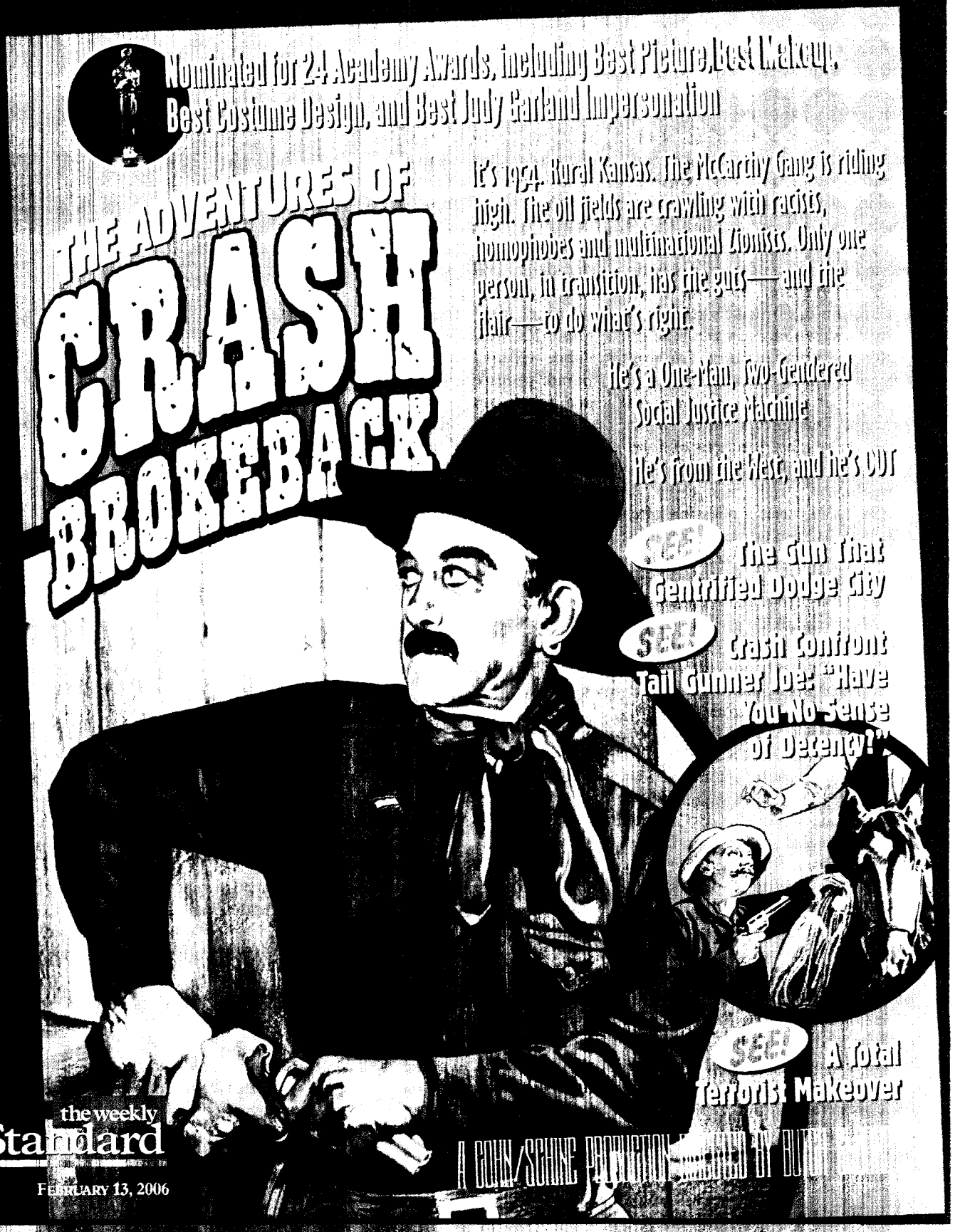
Parody

***"Surprises were scarce in Tuesday's Academy Award nominations. But there's no shortage of hot-button topics that winners could work into their speeches. Take your pick: rights of gay and transgender people* (Brokeback Mountain, Transamerica), *racism* (Crash), *big oil and government* (Syriana) *and terrorism* (Munich)." —*USA Today*, February 1**



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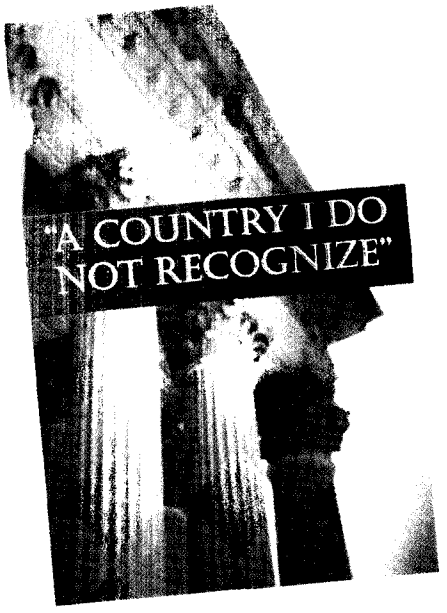
Critical Reading from Hoover

The Supreme Court's Remaking of America



In five thought-provoking essays, the contributors of **"A Country I Do Not Recognize": The Legal Assault on American Values** *examine how recent rulings on international law, religious freedom, and the right to privacy have undermined American sovereignty and values.*

"What has long been true has now become obtrusively apparent: there exists a fundamental contradiction between America's most basic ordinance, its constitutional law, and the values by which Americans have lived and wish to continue to live. That distinction promises to become even more acute as the United States, along with Europe, moves toward the internationalization of law."

—Robert H. Bork

In this collection of essays edited and with an introduction by Robert H. Bork, the contributing authors look at how activists both at home and abroad have used the courts to circumvent ordinary political processes and accomplish their own social and political agenda over the past forty years.

Among the other issues the contributors examine are

- How international law challenges American values and interests and exposes U.S. citizens to legal and economic risks
- How the legal principle of "universal jurisdiction" has been used in courts to undermine our most long-standing values
- How the Supreme Court practices "judge-made constitutional law divorced from the Constitution"
- How a new diplomacy promoted by nongovernmental organizations worldwide seeks to alter the world's political power structure in a way that presents real threats to American sovereignty and values
- The effect that the Supreme Court's religion decisions have had on our religious freedoms

Robert H. Bork has served as solicitor general, acting attorney general of the United States, and a United States Court of Appeals judge. He is also the Tad and Dianne Taube Distinguished Visiting Fellow at the Hoover Institution.

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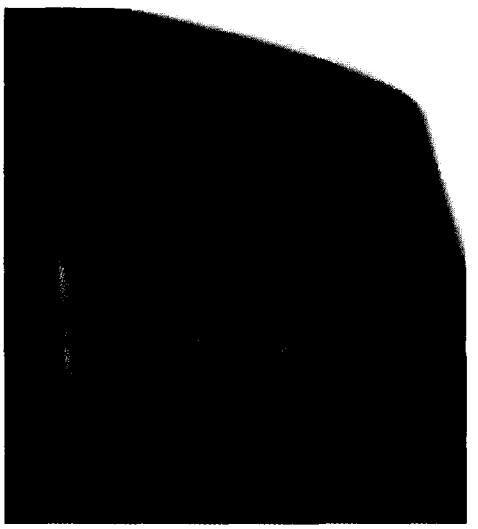
It's Time for A Solution to the Asbestos Litigation Crisis.

New York Times
"A bold change that would leave those most grievously hurt by asbestos better off."

Washington Post
"The last, best chance for fixing the tragically broken asbestos litigation system."

Hartford Courant
"Congress must finally summon the will to act."



Detroit News
"{Congress} should approve reforms that help businesses get costs under control and help victims get compensated."

Wisconsin State Journal
"Offers a far superior way to get money to victims."

If Not Now, When?

After 10 attempts by Congress to end the asbestos litigation crisis, a bipartisan solution is finally within reach. The Senate will soon consider an asbestos trust fund bill. No one said it would be easy. But for the sake of the victims and the economy, we urge the Senate to get the job done. How many more victims have to go uncompensated? How many more companies have to go into bankruptcy? How many more workers have to lose their jobs? How many more retirees have to see their pensions shrink? Never has a solution been so needed. Never has the support been so broad.

We call on the Senate to act quickly—before time runs out.

The Asbestos Study Group | **The Asbestos Alliance**

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